

EXHIBIT 10

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

-----X
IN THE MATTER OF COEYMANS MARINE
TOWING, LLC D/B/A CARVER MARINE
TOWING AS OWNER AND OPERATOR OF M/T
MACKENZIE ROSE, (IMO NO. 8968765) HER
CARGO, ENGINES, BOILERS, TACKLE, EQUIPMENT,
APPAREL, AND APPURTENANCES, ETC., IN REM,
("M/T MACKENZIE ROSE"),

CIVIL ACTION NO:
2:24-CV-00490

PETITIONING FOR EXONERATION FROM OR
LIMITATION OF LIABILITY IN ALLISION WITH
NORFOLK AND PORTSMOUTH BELT LINE RAILROAD
COMPANY MAIN LINE RAILROAD BRIDGE
(THE "BRIDGE") OCCURRING JUNE 15, 2024 IN
AND ABOUT THE ELIZABETH RIVER, VIRGINIA.

-----X

April 29, 2025

10:18 a.m.

AN IN PERSON VIDEOTAPED DEPOSITION of
of Leonard Baldassare, a Defendant herein,
taken by the respective parties, pursuant
to Order, before Larin Kaywood, a Notary
Public for and within the State of New
York.

JOB NO.: 112214

LEONARD BALDASSARE

April 29, 2025

1 A P P E A R A N C E S:

2

3 CRENSHAW, WARE & MARTIN, P.L.C.
4 Attorneys for Defendant Norfolk
5 Portsmouth Belt Line Railroad Company
6 150 W. Main Street Suite 1500
7 Norfolk, Virginia 23510
8 BY: JIM CHAPMAN, ESQ.
9 E-mail: Jchapman@cwm-law.com

7 CLYDE & CO US LLP
8 Attorneys for Coeymans Marine Towing, LLC
9 30 S. Wacker Drive, Suite 2600
10 Chicago, IL 60606
11 BY: JAMES H. RODGERS, ESQ.
12 MICHAEL ROMAN, ESQ.
13 E-mail: Michael.roman@clydeco.us
14 James.rodgers@clydeco.us

11 SINNOT, NUCKOLS & LOGAN, P.C.
12 Counsel for Evanston Insurance Company,
13 S/s/o Norfolk and Portsmouth Belt Line
14 Railroad Company
15 13811 Village Mill Drive
16 Midlothian, Virginia 23114
17 BY: MARK C. NANAVATI, ESQ.
18 CHRISTOPHER JONES, ESQ.
19 E-mail: Mnanavati@snllaw.com
20 Cjones@snllaw.com

17 BUTLER WEIHMULLER KATZ CRAIG, LLP
18 Counsel for Evanston Insurance Company,
19 S/s/o Norfolk and Portsmouth Belt Line
20 Railroad Company
21 11525 N. Community House Road
22 Suite 300
23 Charlotte, North Carolina 28277
24 BY: ZACHARY M. JETT, ESQ.
25 E-mail: Zjett@butler.legal

22

23 ALSO PRESENT:

24 Ingrid Contreras, the videographer

25 Connan Moss.

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8 - MARKED EXHIBITS -

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11 Exhibit 2 - Barge Photos 6/15/2024 245 - 248 84

12 Exhibit 3 - 9.5 Incident Report - 1/22/2024 137
13 (SC pier damage)

14 Exhibit 4 - Labelled Sections of SMS Produced 158
by Carver Listed on cover page

15 Exhibit 6 - Daily Logs 6/12/2024 - 6/16/2024 87
16 (Helm System)

17 Exhibit 9 - Capt. Christopher Miller 96
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19 - PREVIOUSLY MARKED EXHIBITS -

20 Exhibit 15 - Deckhand Sharif Porter Statements
6/15/2024

21 Exhibit 17 - Capt. James Morrissey Statements
22 6/15/2024

23 Exhibit 19 - CG-2692 Report of Marine Casualty

24 Exhibit 21 - Helm Screenshot 6/15/2024

25 Exhibit 23 - Rough Deck Logs 6/12/2024 - 6/16/2024

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1 - PREVIOUSLY MARKED EXHIBITS (CONT.) -
2 Exhibit 24 - Ayers Marine Electronics Records
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4 Exhibit 25 - GMT/Mackay Marine Invoices 2023 - 2024
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1 * * * * *

2 THE VIDEOGRAPHER: This is the
3 beginning of Media Number 1 in the
4 deposition of Leonard Baldassare, in
5 the matter of Coeymans Marine, d/b/a
6 Carver Marine Towing. Case number
7 2:24-cv-00490. Today's date is
8 Tuesday, April 29th, 2025, and the
9 time on the monitor is 10:22 a.m.

10 My name is Ingrid Contreras,
11 and I am the videographer. The court
12 reporter is Larin -- my mistake,
13 Larin Kaywood. We are here with
14 Rosenberg & Associates, Inc. All
15 appearances are recorded.

16 The court reporter will now
17 swear in the witness:

18 L E O N A R D B A L D A S S A R E, the
19 witness herein, having first been duly
20 sworn by the Notary Public, was examined
21 and testified as follows:

22 THE REPORTER: Please state
23 your name for the record.

24 THE WITNESS: Leonard
25 Baldassare.

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1 THE REPORTER: And your
2 address, please?

3 THE ADDRESS: 88 Shore Road,
4 Lindenhurst, New York 11757.

5 EXAMINATION BY

6 MR. CHAPMAN:

7 Q. Good morning, Mr. Baldassare.

8 **A. Good morning.**

9 Q. My name is Jim Chapman, I
10 represent Norfolk and Portsmouth Belt Line
11 Railroad Company. We are taking your
12 deposition today in connection with a
13 lawsuit, a limitation proceeding that was
14 filed by your former employer, Carver, to
15 limit its liability resulting from the
16 damage to the Belt Lines bridge back in
17 June of 2024.

18 Do you understand that?

19 **A. Yes, sir.**

20 Q. Could you tell me your date of
21 birth?

22 **A. 4/26/1993.**

23 Q. I want to get a little
24 background, you know, what your work
25 experience has been and that sort of thing.

LEONARD BALDASSARE

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1 Who'd you work for before you
2 went to work for Carver?

3 **A. Center Line logistics.**

4 Q. And how long were you at Center
5 Line?

6 **A. Four and a half years.**

7 Q. Doing what?

8 **A. Port Captain.**

9 Q. Did you sail at all while you
10 were Port Captain? Did you have any sail
11 time?

12 **A. While I was at Center Line?**

13 Q. Yeah.

14 **A. No, but I sailed previously.**

15 Q. Okay. So who'd you work for
16 right before Center Line?

17 **A. Buchanan Marine.**

18 Q. Did you sail for Buchanan?

19 **A. I did, yes.**

20 Q. Were you the master of one of
21 their vessels?

22 **A. No, I was a mate.**

23 Q. How long were you with
24 Buchanan?

25 **A. A year and half.**

LEONARD BALDASSARE

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1 Q. Where did you sail out of with
2 Buchanan?

3 A. Port Washington, New York.

4 Q. And prior to Buchanan, who were
5 you with?

6 A. Vane Line Bunkering.

7 Q. How long with Vane Line?

8 A. Five years.

9 Q. All sailing?

10 A. Yes.

11 Q. Were you the master of any of
12 the towing vessels?

13 A. No.

14 Q. Mate?

15 A. Mate.

16 THE REPORTER: Just let him
17 finish his questions.

18 MR. CHAPMAN: Okay, sure.

19 THE REPORTER: Then give a
20 pause in between.

21 MR. CHAPMAN: Sorry.

22 THE REPORTER: Okay.

23 Q. I should have said this at the
24 outset, but we'll try to exercise, kind of,
25 good radio discipline. I'll -- let me

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1 finish my question before you start your
2 answer, and I'll do my best to not
3 interrupt your answer.

4 A. Understood.

5 Q. Okay. So before Vane Line, who
6 were you with?

7 A. I was at SUNY Maritime College.

8 Q. I'm sorry, SUNY Maritime?

9 A. Yes.

10 Q. What was your major?

11 A. Marine operations.

12 Q. When did you graduate?

13 A. 2015, sorry.

14 Q. Four years?

15 A. Two years.

16 Q. Two years, okay.

17 A. Yes.

18 Q. Did you go somewhere else
19 before SUNY?

20 A. Yes, community college.

21 Q. Okay. But you ended up with a
22 four year degree coming out of SUNY?

23 A. No, I did two --

24 Q. It's a two-year program?

25 A. Yes.

LEONARD BALDASSARE

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1 Q. Okay. So when were you
2 first -- when did you get your first
3 merchant marine document?

4 A. When I graduated from SUNY,
5 took my license exam and got my MMC, so I
6 think it was February of '14.

7 Q. Are you currently licensed?

8 A. Yes.

9 Q. What do you hold?

10 A. 1600 Ton Mate New York Coastal.

11 Q. Any endorsement?

12 A. Yeah. I have STCW, Radar
13 observer, Lifeboatman, Basic Safety, ECDIS.

14 Q. I'm not familiar with that one.
15 What'd you say?

16 A. ECDIS.

17 Q. ECDIS?

18 A. Yeah.

19 Q. It's an acronym for something?

20 A. Yeah, it's -- I don't know the
21 full --

22 Q. What does it really mean?

23 A. It's a form of like navigation.

24 Q. It's like a navigation
25 endorsement?

LEONARD BALDASSARE

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1 A. Correct, Yes.

2 Q. To use some particular type of
3 nav equipment?

4 A. An ECDIS machine.

5 Q. Okay. And how do you spell
6 that?

7 A. E-C-D-I-S.

8 Q. So has it been about four and a
9 half years since you've actively sailed?

10 A. Yeah, roughly.

11 Q. Do you ever operate any of
12 Center Line's boats?

13 A. No.

14 Q. Do you ever operate any of
15 Carver's boats?

16 A. No.

17 Q. So when did you start with
18 Carver?

19 A. January of 2024.

20 Q. Did you work with Brian Moore
21 when you were at Vane Line?

22 A. He -- we worked there at the
23 same time. We never worked together
24 though.

25 Q. Okay. Did you work with Brian

LEONARD BALDASSARE

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1 Moore when you were at Center Line?

2 **A. I did, yes.**

3 Q. How long was he at Center Line
4 while you were there. Like how much
5 overlap was there?

6 **A. He was there the entire time I**
7 **was there, but I believe he started about a**
8 **year before I did.**

9 Q. And he -- I know -- he told us
10 yesterday he left to go to Carver.

11 **A. Mm-hmm.**

12 Q. Did he invite you to come to
13 Carver after him, or how did you end up at
14 Carver?

15 **A. They were looking for a Port**
16 **Captain, and I had applied for the job.**

17 Q. He told us a little bit about
18 the way in which you applied for jobs at
19 Carver.

20 Did you go through the online
21 portal --

22 **A. No.**

23 Q. -- to get hired?

24 **A. No.**

25 Q. Who'd you -- did you contact

LEONARD BALDASSARE

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1 somebody about getting hired there?

2 **A. I spoke to Tom Marron, the HR**
3 **representative.**

4 Q. Do you know how he spells his
5 last name?

6 **A. I do not.**

7 Q. Did he run HR at the time?

8 **A. I believe so, yes.**

9 Q. What position were you hired
10 into at Carver?

11 **A. Port Captain.**

12 Q. So pretty much the same thing
13 you were doing, at least position wise at
14 Center Line?

15 **A. Correct.**

16 Q. How many vessels did Center
17 Line have that you sort of had Port Captain
18 responsibility?

19 **A. Between the tugs and the**
20 **barges, 40 roughly.**

21 Q. How many tugs?

22 **A. 20. About 20, I think. I'd**
23 **have to go through all of them, but**
24 **I -- I'd say 20 is a fair number between**
25 **the offshore and inland division.**

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1 Q. So fewer tugs to my -- the way
2 Mr. Moore described it at Carver than at
3 Center Line?

4 A. You're saying?

5 Q. Yeah. Well, I'll just ask you
6 this, how many tugs at Carver when you
7 become Port Captain?

8 A. Seven, I believe.

9 Q. Okay.

10 A. Yes. It's a smaller outlet,
11 correct. Yeah.

12 Q. Was it a pay raise to go to
13 Carver?

14 A. It was.

15 Q. And compensation wise, was it a
16 salaried position or an hourly position --

17 A. Salaried.

18 Q. -- going to Carver?

19 A. Correct.

20 Q. Had you been salaried at?
21 Buchanan -- excuse me, at Center Line?

22 A. Yes.

23 Q. When did you leave Carver?

24 A. January of 2025.

25 Q. So about a year altogether at

LEONARD BALDASSARE

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1 Carver?

2 A. Correct.

3 Q. Why'd you leave?

4 A. It was a mutual agreement.

5 They were looking for me to relocate up to
6 their port in Albany, and it just wasn't an
7 option for me at the time.

8 Q. You live on Long Island?

9 A. I do.

10 Q. When you were Port Captain for
11 Carver, did they allow you to like work
12 from home or did you work some place that
13 was close to where you lived?

14 A. I worked in the office in
15 Staten Island.

16 Q. What reason did they give for
17 wanting you to move to the Albany office?

18 A. I think they were just looking
19 for me to be more involved in the main
20 operation up at the port, but like I said,
21 I have a young child so it wasn't an option
22 for me to move.

23 Q. How old is your child?

24 A. She's 10 months.

25 Q. Okay. So how long -- I should

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1 ask you, who are you working for now?

2 **A. H&L Contracting.**

3 Q. And what is their business?

4 **A. Marine construction is the**
5 **division that I work in. I'm a project**
6 **manager. But they do various construction,**
7 **but I'm in the marine sector of the**
8 **company.**

9 Q. Are there any tugs that are
10 part of the marine construction --

11 **A. Yes.**

12 Q. -- division?

13 **A. Yes, there are.**

14 Q. Are they -- give me some idea,
15 relative size?

16 **A. So we have one tug boat that's**
17 **1200 horse power, it has a COI, and then**
18 **the rest are all under 26 foot non-COI work**
19 **boats.**

20 Q. How many altogether?

21 **A. I think about 12.**

22 Q. When you were Port Captain for
23 Carver, tell us what your duties were?

24 **A. I was responsible for the**
25 **day-to-day operations of the tug fleet. So**

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1 I would make sure the tugs were crewed, I
2 would make sure that safety equipment was
3 up to snuff. Just basically be the liaison
4 between the boats and upper management.

5 Q. Did you have any responsibility
6 for hiring crew personnel?

7 A. I did not, no. That all went
8 through HR. I would sometimes sit in on
9 the interviews, but it would go through HR.

10 Q. Did you have any responsibility
11 for testing people that were hired into
12 crew positions?

13 A. No, I did not.

14 Q. Did somebody else?

15 A. Not to my knowledge, no.

16 Q. Was there a training manager,
17 or somebody that was responsible for
18 training when you worked for Carver?

19 A. No, not to my knowledge.

20 Q. As a Port Captain, who did you
21 report to?

22 A. Brian Moore.

23 Q. Was there anybody else that
24 you, I don't know, thought of having to
25 report to in your mind, somebody else

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1 besides him that you also had to report to?

2 **A. No.**

3 Q. Did you ever deal with Nick
4 Laraway?

5 **A. Yeah. He was the -- he's like**
6 **Brian's boss, so -- but not directly, no.**

7 Q. So you never had to meet with
8 him?

9 **A. No. I did, but I was -- like I**
10 **wouldn't report to Nick. I would report**
11 **things to Brian.**

12 Q. Okay. Just as a for instance,
13 I'm going to get into some questioning
14 about the allision with the bridge, and how
15 that was reported and that sort of thing,
16 but did you ever have a conversation with
17 Nick Laraway about that incident?

18 **A. I did not, no.**

19 Q. From your perspective, was
20 Brian Moore the guy that ran Carver Marine
21 Towing?

22 **A. Yes, he was the general**
23 **manager.**

24 Q. What was the normal means of
25 communicating with Mr. Moore when you were

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1 Port Captain?

2 A. Phone call.

3 Q. Did you ever e-mail him?

4 A. I did.

5 Q. Is there some distinction in
6 your mind as to why you would e-mail him
7 about some things or -- versus having a
8 phone call with him about others?

9 A. No, just -- no.

10 Q. Were you issued a phone by the
11 company --

12 A. Yes.

13 Q. -- in your role as Port
14 Captain?

15 A. Yes, I was.

16 Q. Do you still have that phone
17 today?

18 A. I do not, no.

19 Q. You were served with a subpoena
20 before the deposition?

21 A. Yes, sir.

22 Q. And I asked you to bring
23 whatever phone you had used or communicated
24 with back --

25 A. Yes.

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1 MR. RODGERS: Jim --

2 MR. CHAPMAN: Let me just
3 finish the question. Let me just
4 finish the question.

5 MR. RODGERS: Finish it.

6 Q. The subpoena requested that you
7 produce the phone that you had used on June
8 15th, 2024, which was the date of the
9 allision, right?

10 Do you still have that phone
11 today?

12 MR. RODGERS: Just don't answer
13 it. We're producing Mr. Baldassare
14 as a Carver witness, not pursuant to
15 the subpoena. Any demand you could
16 make to Carver, and -- we'll deal
17 with it. So he's not here now by
18 virtue of the subpoena, he's here now
19 as our witness as I talked to you
20 about, or e-mailed you about.

21 Q. Yeah. I'm just asking
22 whether -- you confirmed that you were
23 served with a subpoena, right?

24 MR. RODGERS: You can --

25 A. Yes.

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1 Q. Okay. And the subpoena
2 requested you to produce a phone if you
3 still had it in your possession, correct?

4 A. Yes.

5 Q. Okay. Do you still have that
6 phone in your possession?

7 A. No.

8 Q. All right.

9 MR. RODGERS: Yeah, you can go
10 ahead.

11 A. Okay. Yeah. No. I don't have
12 the phone in my possession.

13 Q. And that's because it was a
14 company phone and you turned it back into
15 the company when you left?

16 A. That is correct.

17 Q. Is that the only phone that you
18 used for communication on company business?

19 A. Yes, it is.

20 Q. So it sounds like when you were
21 working for Carver, you'd carry around two
22 phones. You had a personal phone and the
23 company phone.

24 MR. RODGERS: Objection to
25 form.

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1 Q. Is that right?

2 A. **Correct, yes.**

3 Q. Did you use the company phone
4 to text -- send text messages on company
5 business?

6 A. **Yes.**

7 Q. Were you ever requested to
8 provide any text information or things that
9 were on that phone in connection with the
10 allision?

11 A. **No.**

12 Q. When you were Port Captain for
13 Carver, did you ever have to fire anybody?

14 A. **No, I did not.**

15 Q. Anybody you felt ought to have
16 been fired?

17 A. **No.**

18 Q. In your role as Port Captain,
19 if -- and I realize you didn't fire anybody
20 or think anybody should be fired, but did
21 you have the authority to recommend that
22 somebody be fired?

23 A. **Yes, I did.**

24 Q. Besides Port Captain, did you
25 hold any other position in the Cargo

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1 organization?

2 **A. I did not, no.**

3 Q. So you said that when you were
4 hired, there were seven tugs. Were there
5 more than that when you left working for
6 cargo?

7 **A. No.**

8 Q. Still seven?

9 **A. Yeah, I believe. Caroline,**
10 **Pike, Otter, McKenzie Rose, Helen, Erin**
11 **Elizabeth, Daisy Mae, yeah, seven.**

12 Q. Okay.

13 **A. Yeah. Sorry, I just --**

14 Q. Those are all inspected
15 vessels?

16 **A. Correct. Yes, they are.**

17 Q. Any uninspected vessels?

18 **A. No.**

19 Q. How long did it take you to
20 find a position with H&L Contracting?

21 **A. Three weeks.**

22 Q. Do you feel like you left
23 Carver on good terms?

24 **A. To my knowledge, yes.**

25 Q. Have you had any communications

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1 with Brian Moore since you've left Carver?

2 A. No.

3 Q. So no texting, no conversation?

4 A. No.

5 Q. Did Carver or anyone at Carver
6 provide a reference for you when you left
7 the company?

8 A. For -- to -- for a new job,
9 you're saying?

10 Q. Yes.

11 A. Oh, no.

12 Q. And did you request one?

13 A. No.

14 Q. The -- did you have any
15 preexisting connection with anybody at H&L
16 Contracting before you went to go work for
17 them?

18 A. No.

19 Q. And was it like it's owned by a
20 cousin or something?

21 A. No.

22 Q. Okay.

23 A. No, no.

24 Q. There are three people that
25 are -- that were members of the crew of the

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1 Mackenzie Rose when the allision occurred
2 that are no longer with the company, no
3 longer with Carver, Captain Miller, Captain
4 Morrissey and Engineer McGrath. I want to
5 ask you, did Miller leave while you were
6 still employed by Carver?

7 **A. No. He was still employed when**
8 **I left.**

9 Q. And was he still captain of the
10 Mackenzie Rose when you left?

11 **A. He was, but the Mackenzie Rose**
12 **was in the shipyard when I left.**

13 Q. So what was he doing if --

14 **A. He was home. He wasn't**
15 **like -- he wasn't working at the time.**

16 Q. So to your knowledge, he was
17 still collecting a paycheck?

18 **A. No, he was not.**

19 Q. Okay. So he was still on the
20 company rolls, but he wasn't receiving --

21 **A. Correct. Because he was not**
22 **working because his boat was in the**
23 **shipyard.**

24 Q. So his position as captain,
25 that's not a salaried position. It's if

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1 you're working position hourly, or?

2 **A. Correct. It's a day rate.**

3 Q. Day rate.

4 **A. Yes.**

5 Q. Okay. Do you recall the last
6 time you actually spoken to him?

7 **A. No, I do not.**

8 Q. Do you know how long the
9 Mackenzie Rose had been in the yard?

10 MR. RODGERS: If you know.

11 **A. Five months, I believe. It was**
12 **still in the yard when I left and I'm not**
13 **sure when exactly it came out, but I would**
14 **say five months. It was her annual dry**
15 **docking, so.**

16 Q. So an annual what? For --

17 **A. COI.**

18 Q. Okay. So she went into the
19 yard, you left -- you said you left in
20 January?

21 **A. Yes, sir.**

22 Q. And how long had it been in the
23 yard before that?

24 **A. A week or two maybe, it wasn't**
25 **very long.**

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1 Q. And then you think -- maybe I
2 misunderstood. I heard you say something
3 about five months, and I'm just trying to
4 understand. It wasn't in the yard for five
5 months, or was it?

6 A. I don't know. I'm assuming or
7 just remembering --

8 MR. RODGERS: Don't assume.

9 **THE WITNESS: Okay.**

10 MR. RODGERS: And don't guess.

11 A. So I don't know. I don't know
12 how long it was in there. When I left, it
13 was still in the shipyard.

14 Q. Okay.

15 A. I don't know when it came out.

16 Q. All right. And it had gone
17 there -- gone in there a couple of weeks
18 before you left?

19 A. Correct.

20 Q. All right. So did you leave
21 like January 1, January 30? I'm just
22 trying to, kind of, put a timeframe on
23 this.

24 A. I think it was the end of
25 January. I don't know the exact date.

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1 Q. Had that shipyard evolution for
2 the COI been planned --

3 **A. Yes.**

4 Q. -- for some period of time?

5 **A. Yes.**

6 Q. And is that the port captain's
7 responsibility, or does somebody else
8 handle that?

9 **A. That would be the engineering**
10 **department.**

11 Q. So is there a port engineer for
12 the company that handles that sort of
13 thing?

14 **A. There is, yes.**

15 Q. And when you were Port Captain,
16 who was the port engineer?

17 **A. Chris Nunamann.**

18 Q. Nunamann?

19 **A. Yes. Don't ask me how to spell**
20 **it because I have no idea.**

21 Q. Okay.

22 THE REPORTER: And it's COI,
23 the acronym, right?

24 **THE WITNESS: Yes ma'am?**

25 Q. And just for clarification of

LEONARD BALDASSARE

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1 record, COI stands for certificate of
2 inspection, right?

3 A. Yes, that's correct.

4 Q. So let me ask about Captain
5 Morrissey. Did he leave the company while
6 you were still port engineer -- excuse me,
7 Port Captain?

8 MR. RODGERS: I think you said
9 Moore.

10 MR. CHAPMAN: I said Captain
11 Morrissey, I thought --

12 MR. RODGERS: Miller.

13 MR. CHAPMAN: Thought so.

14 MR. RODGERS: Okay.

15 MR. CHAPMAN: I mean, Captain
16 James Morrissey.

17 MR. RODGERS: Oh, Morrissey. I
18 though you said Moore. Sorry. My
19 hearing.

20 Q. Did Captain James Morrissey
21 leave Carver before you did?

22 A. I'm not sure. I don't know.

23 As far as I knew, after this incident
24 happened, he was still an employee of the
25 company. However, he was not working on

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1 any of the boats.

2 Q. So the -- once he brought this
3 barge, or the -- once the Mackenzie Rose
4 delivered this barge to the bridge
5 construction location in New Jersey --

6 A. Mm-hmm.

7 Q. -- he didn't sail again for
8 Carver?

9 A. To my knowledge, no.

10 Q. Would you have like crew
11 assignment responsibility so that you would
12 actually know that?

13 A. Yes. But I believe he was
14 removed from the vessel by upper
15 management. It was kind of above my pay
16 grade.

17 Q. So you didn't make that
18 decision?

19 A. I did not. It was made by
20 upper management.

21 Q. And when you say "upper
22 management," do you mean Mr. Moore?

23 A. Correct.

24 MR. RODGERS: I just want to
25 talk to the witness for a minute.

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1 Are you okay with that, Jim.

2 MR. CHAPMAN: You know, I'm
3 really not.

4
5 MR. RODGERS: All right. I'll
6 do it in front of you. Well, I can,
7 but I don't want to waste a lot of
8 time. Off the record.

9 (Whereupon, a discussion was
10 held off the record.)

11 **THE WITNESS: This incident**
12 **happened, and then on June 24th, I**
13 **was out for eight weeks on paternity**
14 **leave. So anything that --**

15 MR. RODGERS: That's it.
16 That's what he need.

17 **THE WITNESS: Okay.**

18 MR. RODGERS: He can ask you
19 now what you remember and know.

20 **THE WITNESS: Sure, understood.**

21 Q. I'm sorry, eight weeks of
22 paternity leave?

23 **A. Yes.**

24 Q. While you were on paternity
25 leave, did anybody inform you that Captain

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1 Morrissey had been removed?

2 **A. No.**

3 Q. Did you have any communication
4 with anybody at the company during those
5 eight weeks that you were enjoying your
6 paternity leave?

7 **A. In regards to this situation or**
8 **just in general?**

9 Q. Just in general.

10 **A. I did, yes.**

11 Q. Okay.

12 **A. Just congratulations, is --**

13 Q. Well wishes?

14 **A. Correct.**

15 Q. Okay. Anything
16 business-related?

17 **A. No.**

18 Q. So when you come back -- let's
19 see -- you said June 24th, right?

20 **A. Yes.**

21 Q. You came back late August of
22 2024?

23 **A. Correct.**

24 Q. And Captain Morrissey was not
25 sailing?

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1 A. Correct.

2 Q. Right. And was that when you
3 learned that he'd been removed from any
4 operational position?

5 A. Yes.

6 Q. Was he doing anything else for
7 the company?

8 A. I do not know.

9 Q. You didn't see him?

10 A. I did not see him, no.

11 Q. You didn't have any
12 communication with him?

13 A. I did not.

14 Q. Do you know whether he's still
15 being paid?

16 A. I do not know.

17 Q. And at any time before you left
18 Carver in January of 2025, did Captain
19 Morrissey ever come back?

20 A. No.

21 Q. Did you ever come to learn that
22 the reason Captain Morrissey was removed
23 was because of the incident involving the
24 allision with the Belt Line Bridge?

25 MR. RODGERS: Objection to

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1 form. You can answer if you know.

2 A. I don't know. I'm not sure. I
3 was just -- I figured that that was the
4 reason why.

5 Q. You never asked?

6 A. I never asked.

7 Q. Would there be any other reason
8 that he would not --

9 A. No.

10 Q. -- come back?

11 A. No. That's why I just figured
12 that that was the reason why.

13 Q. Do you have any idea what he's
14 doing today?

15 A. I do not.

16 Q. So let me turn to the Engineer
17 Jacob McGrath?

18 A. Jason.

19 Q. Jason, excuse me. Thank you.
20 Jason McGrath. Was he still employed by
21 the company when you left in January 2025?

22 A. He was not.

23 Q. Do you know when he left?

24 A. I do not.

25 Q. Did it have anything to do with

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1 the allision?

2 A. I do not know.

3 Q. Do you know whether he quit --

4 A. I do not know.

5 Q. -- or he was asked to leave?

6 A. I think whenever it happened I

7 was not -- I was out, so I don't know.

8 MR. CHAPMAN: I'm just going to
9 intervene for a second. Are you able
10 to get all that down? I know we're
11 kind of talking back and forth.

12 MR. RODGERS: You got to wait
13 for him to finish his questions.

14 THE WITNESS: I know. I'm
15 sorry. I'll try to slow down.

16 MR. CHAPMAN: Yeah, you're
17 doing fine.

18 THE REPORTER: I'm -- yeah.
19 Just give it a pause.

20 THE WITNESS: Okay.

21 THE REPORTER: I know you want
22 to answer.

23 THE WITNESS: Sorry.

24 THE REPORTER: It's okay.

25 THE WITNESS: I'm just not used

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1 to --

2 THE REPORTER: I know.

3 **THE WITNESS: -- Stopping.**

4 THE REPORTER: It's not usual
5 conversation.

6 MR. RODGERS: -- from New York.

7 **THE WITNESS: Yes.**

8 THE REPORTER: Literally.

9 Q. Were you involved in hiring
10 Captain Morrissey?

11 **A. I was not.**

12 Q. Do you know who had that
13 responsibility?

14 **A. I do not know. He was employed**
15 **when I was -- he was already there when I**
16 **came on board.**

17 Q. So you don't know when he was
18 hired before --

19 **A. I do not know.**

20 Q. -- before that? Okay.
21 Did -- when you were Port Captain, was
22 there any process for evaluating the
23 capabilities of people that were currently
24 employed? Like you'd go out and watch them
25 at work or review their daily logs or any

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1 of that sort of thing?

2 A. Yes. So the captains were
3 responsible for evaluating their mates and
4 deck hands, the port engineers would be
5 responsible for evaluating the engineers
6 on the boats, and then myself or Brian
7 would be responsible for doing annual ride
8 alongs with the captains to just kind of
9 make sure that they were following policies
10 and procedures.

11 Q. So how many ride alongs did you
12 do in the year that you worked for Carver?

13 A. I would say at least five.

14 Q. Was there anybody else that did
15 ride alongs?

16 A. Brian Moore.

17 Q. Okay. And is a ride
18 along -- can you describe that for us?
19 Like, what do you mean by that?

20 A. Sure. Yeah. So I would get on
21 the boat in the morning when I got in, say
22 they had a couple of jobs that they would
23 be doing, delivering barges, whatever it
24 may be. I would go with them, I'd be in
25 the wheelhouse with the captain and I'd

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1 kind of just, you know, make sure that he
2 was operating the vessel safely.

3 Q. And this is specific to the
4 master of the vessel, right?

5 A. Yes, sir.

6 Q. Okay. Did you ever do anything
7 similar with the mates?

8 A. No. The mates would be
9 evaluated by the captains, and then if
10 there was any type of issues, then myself
11 or Brian would get involved and do our own
12 ride along and assessment.

13 Q. Is there any form that would be
14 filled out in connection with those ride
15 along assessments?

16 A. I believe so, yes.

17 Q. Where would you enter that
18 data? Where -- what form is it that you're
19 talking about?

20 A. It would go into the Helm
21 CONNECT.

22 Q. So there's some sort of
23 evaluation process?

24 A. Yes, sir.

25 Q. Okay. So do the masters have

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1 to do that for the mates?

2 A. They do, yes.

3 Q. And how frequently do they have
4 to do that?

5 A. It's annually.

6 Q. And you said that the port
7 engineer was responsible for evaluating the
8 engineer assigned to each vessel?

9 A. Correct.

10 Q. Is that done also in some kind
11 of ride along, or?

12 A. Yes.

13 Q. Okay. So would the ride along
14 ever take this bridge allision incident as
15 an example? They started in Chesapeake,
16 Virginia with the barge that they had
17 picked up, and it took them basically two
18 days, maybe a little less, to get to the
19 job site where it was being delivered,
20 right?

21 A. Mm-hmm.

22 Q. Would you do a ride along on
23 that type of voyage or are you just talking
24 about going out like a small job in the
25 harbor, where you're out for two hours,

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1 four hours, maybe the whole day?

2 A. It would mostly be local stuff.
3 I wouldn't normally go for a multiple day
4 voyage.

5 Q. So the -- you said about five
6 that you could -- you had done in the year
7 that you were there, they were all less
8 than a full day?

9 A. No, it would be a full day.

10 Q. Oh, they would be a full day?

11 A. Yes, yes.

12 Q. You spend the whole day on the
13 boat?

14 A. Correct.

15 Q. Drinking the coffee on the
16 boat?

17 A. Doing what I got to do.

18 Q. Okay. But there would be a
19 form filled out for that -- a check ride or
20 ride along.

21 A. Yes.

22 Q. And there should be a similar
23 form filled out by the master for the mate
24 that they work with, right?

25 A. Yes.

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1 Q. And the Mackenzie Rose is
2 actually -- it's kind of crewed by two
3 crews, right, because there is crew
4 changes?

5 A. Yes, correct.

6 Q. So there's really two masters
7 in the Mackenzie Rose?

8 A. Yes.

9 Q. Okay. When Captain Miller was
10 the master, who was the other master that
11 worked kind of the other -- is it two week
12 on, two week off?

13 A. Yes.

14 Q. Who was the master that worked
15 the other two weeks?

16 A. Captain Morrissey.

17 Q. So Morrissey was actually a
18 captain of the vessel?

19 A. In this instance, he was
20 working over, which a lot of times people
21 do for extra money if we need someone to
22 fill in. So he was sailing in the capacity
23 of mate when this incident happened.

24 Q. Oh, so he was one of the two
25 normal masters of the Mackenzie Rose?

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1 A. Yes, sir.

2 Q. Okay. And he
3 just -- he -- Captain Miller was the other
4 master?

5 A. Yes.

6 Q. All right. So ordinarily, they
7 wouldn't be on the same cycle?

**8 A. No. They would technically
9 work opposite of each other.**

10 Q. Okay. So did you ever do a
11 check ride with Captain Morrissey?

12 A. I don't think I did, no.

13 Q. Okay. I mean, you were there
14 for a year, so --

15 A. Yes.

16 Q. -- somebody would've done one?

**17 A. Somebody would've done one.
18 But when this happened, I had only been
19 there for five months, so -- or six months,
20 whatever it was.**

21 Q. Okay. And then you said you
22 didn't work after that --

23 A. Correct.

24 Q. -- right? Okay. But somebody
25 did one or you would expect there to --

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1 **A. At some point, somebody prior**
2 **to me being there would I -- would've done**
3 **one.**

4 Q. Okay. Do you know what that
5 form's called?

6 **A. I do not recall what -- it's**
7 **under in the Helm CONNECT. I'm not sure.**

8 MR. RODGERS: You're referring
9 to the ride along form?

10 MR. CHAPMAN: Yes.

11 MR. RODGERS: Okay.

12 Q. Or the annual review form,
13 whether it's called ride along, I don't
14 know.

15 **A. Yeah. I'm not sure what it's**
16 **called in Helm. I'm sorry.**

17 Q. And would there be a -- there'd
18 be -- is there one specific to the master
19 of the vessel and another one that's
20 specific to the evaluation of the mate on
21 the vessel, and another one that's specific
22 to the evaluation of the engineer on the
23 vessel?

24 **A. Yes. It's separate forms for**
25 **each position.**

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1 Q. Okay. Are there any other
2 opportunities to evaluate someone's
3 competence during the work that they're
4 doing on a tug besides those annual reviews
5 that you just mentioned?

6 A. I don't really understand what
7 you're asking, I'm sorry.

8 Q. Yeah. I'm trying -- well, you
9 told us Captain Morrissey was one of the
10 two captains on the vessel.

11 A. Right.

12 Q. He was operating in the role of
13 being the mate for this particular two-week
14 assignment, right?

15 A. Right.

16 Q. I'm just -- and you explained
17 that there's an annual review process and a
18 form to be filled out?

19 A. Mm-hmm.

20 THE REPORTER: Yes?

21 A. Yes.

22 Q. So what I'm trying to
23 understand, is there any other time or
24 other opportunity other than annually where
25 any of those roles would actually be

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1 formally evaluated?

2 **A. Not formally, no.**

3 Q. Okay. Are there any other
4 forms to be filled out in Helm that involve
5 an evaluation of crew personnel?

6 **A. No.**

7 Q. Did you do anything to prepare
8 to testify today?

9 MR. RODGERS: Other than
10 meeting with me.

11 MR. CHAPMAN: Well -- okay. We
12 can start there, but I'm just asking
13 in his mind whether he did anything
14 to prepare.

15 **A. Just meeting with Jim.**

16 Q. Okay. Mr. Rodgers?

17 **A. Mr. Rogers, sorry.**

18 Q. All right. And was that today?

19 **A. It was this morning in your**
20 **office, and then previously last week --**

21 Q. And other times?

22 **A. Yeah, last week on the phone.**

23 Q. Okay, okay. I'm not going to
24 dive into what you guys talked about, but
25 did you do anything else in your mind to

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1 prepare for this testimony?

2 **A. No. Say a prayer this morning**
3 **on the way in.**

4 Q. Did you review any documents at
5 all?

6 **A. No.**

7 Q. So just trying to understand,
8 you seem very alert, but I want to make
9 sure, did you sleep okay last night?

10 **A. Yes.**

11 Q. All right. Are you taking any
12 medications or substances that would impair
13 your ability to understand my questions or
14 provide truthful answers?

15 **A. No.**

16 Q. Have you ever testified before?

17 **A. I have not, no.**

18 Q. Okay. So this deposition is
19 the first time you've ever done
20 this -- ever done a deposition?

21 **A. Correct, yes.**

22 Q. All right. But never testified
23 at trial, a hearing, anything like that?

24 **A. The -- one with the Coast Guard**
25 **about this -- the MTSB meeting with the**

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1 Coast Guard, which I believe you were on
2 also.

3 Q. That was a Zoom meeting --

4 A. Yes.

5 Q. -- right?

6 A. Correct.

7 Q. So -- and I honestly don't know
8 whether the Coast Guard put you under oath.

9 A. They did.

10 Q. But you provided some answers
11 to questions.

12 A. Yes.

13 Q. Any other occasions than
14 that --

15 A. No.

16 Q. -- where you've testified?

17 A. No.

18 Q. Do you understand the term
19 "allision?"

20 A. Yes, sir.

21 Q. And what it means for a vessel
22 to a elide with a -- to hit a fixed object,
23 right?

24 A. Yes.

25 Q. Tell us how you first learned

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1 about the Mackenzie Rose eliding with the
2 Belt Line Bridge on June 15th, 2024?

3 **A. Captain Miller called me, told**
4 **me that they were coming through the**
5 **bridge, that Captain Morrissey got out of**
6 **shape, and landed on the fendering inside**
7 **of the bridge and slid through the bridge,**
8 **and that there was no damage to the bridge**
9 **or to the vessel or barge.**

10 Q. So when Captain Miller called
11 you, did you pick up right away, or did he
12 leave a message and you called him back?

13 **A. I believe I picked up right**
14 **away.**

15 Q. And what were you doing at the
16 time that he called?

17 **A. I don't remember.**

18 Q. So Saturday afternoon?

19 **A. Yes.**

20 Q. In the middle of June?

21 **A. Yes.**

22 Q. Do you know where you were?

23 **A. I was home.**

24 Q. How many conversations did you
25 have with Captain Miller?

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1 A. That day?

2 Q. Yes, sir.

3 A. I don't really recall.

4 Q. More than one?

5 A. Yes.

6 Q. In the first phone conversation
7 that you had with him, did he tell you that
8 they had taken a photograph?

9 A. No, he did not.

10 Q. Did you ask him to take a
11 photograph?

12 A. I did.

13 Q. In that first conversation?

14 A. Yes.

15 Q. All right. Did you
16 subsequently receive a photograph?

17 A. I did.

18 Q. Was it more than one?

19 A. I believe it was four or five.

20 Q. And did you receive them all at
21 the same time, or did you receive them in
22 groups or --

**23 A. I think they came in all at
24 once.**

25 Q. All right.

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1 A. Yeah.

2 Q. And what do you recall the
3 photos being?

4 A. There was a few of the bridge,
5 there was one of the barge, and then there
6 was one of the tug.

7 Q. And when you had -- after you
8 first spoke to Captain Miller, took his
9 phone call and he told you this situation,
10 who did you contact?

11 A. Brian Moore.

12 Q. And did he pick up when you
13 called him?

14 A. I think so, yeah. I believe he
15 did.

16 Q. What did you tell him?

17 A. Told him that Captain Miller
18 just called me, that Captain Morrissey was
19 coming through the bridge, got out of
20 shape, landed on the fendering. There was
21 no damage that anyone could see, and that
22 they were going to send me some photos and
23 then I would send him the photos once I got
24 them.

25 Q. So when Captain Miller told you

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1 that Captain Morrissey had gotten out of
2 shape, is that -- is it -- does "getting
3 out of shape" have some meaning that you
4 can explain for us?

5 **A. If you are going through this**
6 **opening, and you're lining up to come**
7 **through the center, and you start sliding a**
8 **little bit, that's getting out of shape.**

9 Q. So the vessel is drifting in
10 some way or --

11 **A. Well, there's --**

12 Q. -- steering in a way that you
13 don't intend it to?

14 MR. RODGERS: Just for the
15 record, he's testifying as a fact
16 witness, not as an expert.

17 MR. CHAPMAN: Yeah. I'm just
18 asking him to explain.

19 MR. RODGERS: Just putting it
20 on the record.

21 MR. CHAPMAN: He said those
22 were Miller's words, and I'm --

23 MR. RODGERS: No, he's
24 fine -- I'm fine with him testifying.
25 I just want to put that on the

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1 record. Just --

2 **A. Can you repeat what you just**
3 **asked, I'm sorry?**

4 Q. Yeah. I'm just trying to
5 understand. You took a paper clip -- a
6 couple of clips and used them, I assume as
7 the fenders of a bridge -- the channel
8 opening?

9 **A. It could be anything, buoys,**
10 **anything.**

11 Q. But getting out of shape to you
12 or what you understood Captain Miller to
13 say to you involved the vessel moving in
14 some direction that it wasn't intended to
15 move?

16 **A. Correct.**

17 Q. Okay. And what causes a vessel
18 to get out of shape?

19 **A. Wind, current, tide, there**
20 **could be a few things of that nature.**

21 Q. In your first conversation with
22 Captain Miller, did you ask to talk to
23 Captain Morrissey?

24 **A. I did not.**

25 Q. Did Captain Miller tell you

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1 where on the vessel he was calling from?

2 A. When -- Captain Miller?

3 Q. Yeah.

4 A. Yeah. He was calling from the
5 wheelhouse, he told me.

6 Q. And what I -- I've learned that
7 there's a phone that goes with the tug?

8 A. Yes.

9 Q. Maybe there's more than one,
10 but there's at least one phone, right?

11 A. There's one boat phone for the
12 vessel.

13 Q. Okay. Call the boat phone,
14 right?

15 A. Yes.

16 Q. And when that phone shows up on
17 your phone, it says, "Tug Mackenzie Rose
18 calling -- "

19 A. Yes, sir.

20 Q. -- right? So that's why you
21 know to pick it up.

22 A. Yes, sir.

23 Q. And would you expect the master
24 of the vessel to call you whenever there is
25 an incident that involves the vessel

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1 contacting a fixed object?

2 A. Yes.

3 Q. So it says, "Tug Mackenzie
4 Rose," and you assume that you're going to
5 end up talking to the master on the vessel.
6 It might be somebody else, but --

7 A. Yeah.

8 Q. -- your first inclination is,
9 "It's the captain calling."

10 A. Correct.

11 Q. The master calling?

12

13

14 MR. RODGERS: Objection to
15 form. You can answer.

16 A. Yes.

17 Q. Okay. Did you have calls from
18 any other of the Carver vessels that day?

19 A. I don't recall.

20 Q. The phone, was it like an
21 iPhone or was it an Android device?

22 A. The boat phone?

23 Q. No. The phone that you were
24 assigned, I'm sorry. Good clarification.

25 A. It was an iPhone.

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1 Q. All right. And the phone on
2 the boat, do you know whether it's also an
3 iPhone?

4 A. It was also an iPhone.

5 MR. RODGERS: Just to clarify
6 for me, the boat phone was an iPhone.

7 THE WITNESS: Yes.

8 MR. RODGERS: Okay.

9 Q. Okay. So the phone itself, at
10 least for some period of time, would've a
11 log of when that call was placed to you and
12 the duration that you spoke to Captain
13 Miller, right?

14 A. I would think so. I'm not a
15 phone expert, but yes.

16 Q. Well, you've got an iPhone
17 today?

18 A. I do.

19 Q. Okay. Your personal phone is
20 an iPhone?

21 A. It is.

22 Q. Right. And that's the way they
23 work?

24 A. Yes.

25 Q. Right. So the next call, which

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1 I assume was right away was to Brian Moore?

2 A. Yes, sir.

3 Q. And you've told us what you
4 told him.

5 A. Yes.

6 Q. And you were waiting on photos?

7 A. Yes.

8 Q. How soon after you talked to
9 Mr. Moore did those photos arrive?

10 A. I don't really recall, but
11 within the hour. It was fairly quick.

12 Q. They were delivered to you how?

13 A. Via text message.

14 Q. From the boat phone?

15 A. Yes, sir.

16 Q. So the photos were taken with
17 the boat phone and then simply forwarded to
18 you?

19 A. Yes.

20 Q. Okay. In the time that you
21 continued to work for Carver, did you ever
22 delete those photos from the company phone?

23 A. I did not, no.

24 Q. So at least when you left, they
25 should have still been on there?

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1 A. Yes.

2 Q. Was there any message that came
3 with any of the photos that were sent to
4 you from the boat phone?

5 A. I don't recall.

6 Q. Did you at any time while you
7 were still employed by Carver, if there was
8 a text message that came with those photos,
9 ever delete them?

10 A. No.

11 Q. After you spoke to Mr. Moore,
12 did you call the boat back?

13 A. I did.

14 Q. And what did you tell them?

15 A. I told them that Brian and I
16 were going to review the photos and discuss
17 the course of action.

18 Q. So did you tell them to
19 standby?

20 A. Yes.

21 Q. And when -- you told us you got
22 the photos within the hour?

23 A. Mm-hmm.

24 Q. Is it your recollection that
25 you got photos of the bridge and the barge

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1 within the hour?

2 **A. Yes.**

3 Q. All right. And they came as a
4 group or one at a time, do you recall?

5 **A. I don't recall.**

6 Q. But they all came at about the
7 same time?

8 **A. Yes.**

9 Q. That's your memory, okay. Then
10 once you got the photos, did you send them
11 to Brian?

12 **A. I did, yes.**

13 Q. And does he have a company
14 phone or did he have a company phone?

15 **A. I don't know, honestly.**

16 Q. You had his -- presumably had
17 his cell number in your contact, right?

18 **A. Yeah. I think it was his work
19 phone, yeah.**

20 Q. Okay.

21 **A. Yeah.**

22 MR. RODGERS: Don't guess.

23 **THE WITNESS: Okay.**

24 Q. But --

25 **A. I don't know.**

LEONARD BALDASSARE

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1 Q. But you do know that you sent
2 them to him?

3 A. I did, yes.

4 Q. Okay. Did you include any text
5 message when you sent them?

6 A. I don't recall. I don't
7 recall.

8 Q. The photos that you sent to him
9 with your company phone, at any time before
10 you left Carver, did you ever delete those
11 text messages?

12 A. No.

13 Q. To Mr. Moore?

14 A. No, I never deleted anything.

15 Q. Okay. In the seven months, six
16 months or so that you were still employed
17 by Carver before you left and turned your
18 phone back in, did you -- was that phone
19 ever replaced?

20 A. No.

21 Q. So same phone?

22 A. Yes, sir.

23 Q. From June 15th to when you gave
24 it back to him in January of 2025?

25 A. Yes.

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1 Q. Now, I assume that you talked
2 to Mr. Moore again after you sent him the
3 photos?

4 A. Yes.

5 Q. Tell us about that
6 conversation.

7 A. We discussed the photos --

8 MR. RODGERS: Just -- sorry to
9 interrupt, Jim. Are you talking
10 about on the phone, or just
11 some -- that day on the phone.

12 MR. CHAPMAN: That day, yeah.

13 MR. RODGERS: Okay, go ahead.

14 Q. Focused -- still focused on
15 June 15th.

16 A. Okay. Yeah, sure. Yeah. We
17 spoke about the photos, we went over what
18 Captain Miller told us happened. We didn't
19 observe any damage anywhere to our
20 knowledge, and we both agreed that it would
21 be okay for the vessel to proceed and that
22 we would discuss it further on Monday.

23 Q. So in your conversation with
24 Mr. Moore after sending him the photos, was
25 there any discussion about the need to

LEONARD BALDASSARE

April 29, 2025

1 report the incident to the Coast Guard?

2 A. No. We both felt at the time
3 that reporting it was not necessary because
4 there was no damage or anything to report.

5 Q. But you did actively discuss
6 whether it should be reported?

7 A. Yes.

8 Q. To the Coast Guard?

9 A. Yes.

10 Q. Okay. What about reporting it
11 to the Bridge, to the Belt Line Bridge, was
12 that discussed?

13 A. No.

14 Q. Just the possibility of
15 reporting to the Coast Guard?

16 A. Yes, sir.

17 Q. Did either of you -- did you
18 contact the Coast Guard that day?

19 A. Not that day, no.

20 Q. So after you talked to
21 Mr. Moore, did you call the boat back?

22 A. Yes.

23 Q. And who did you speak with?

24 A. Captain Miller again.

25 Q. So then one more phone

LEONARD BALDASSARE

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1 conversation, it sounds like the third
2 conversation you would've had with the boat
3 on the afternoon of June 15th, 2024 about
4 the allision?

5 A. Yes.

6 Q. All right. And what did you
7 tell -- or what did you and Captain Miller
8 talk about?

**9 A. I told him that Brian and I had
10 discussed it. There was no damage to the
11 tug, there was no damage to the barge.
12 They told us from what they could see that
13 there was no damage to the bridge, so we
14 agreed that it would be okay to proceed.**

15 Q. And the photo of the bridge
16 that they sent you did not indicate -- or
17 you didn't think that there was any damage
18 to the Railroad Bridge?

19 A. Correct.

20 Q. In any of -- you told us that
21 you didn't talk to Captain Morrissey in the
22 first conversation, but in any of the
23 conversations that you had with the
24 boat -- I'll call it, on June 15th, did you
25 talk to anybody other than Captain Miller?

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1 A. No.

2 Q. Besides Mr. Moore, did you
3 speak -- and the -- and Captain Miller, did
4 you speak with anybody else with Carver
5 about the allision on June 15th, 2024?

6 A. I did not, no.

7 Q. So the last phone call or the
8 third phone call you had with Captain
9 Miller, you indicated that it was okay to
10 leave and to come on up with the barge to
11 destination, right?

12 A. Yes.

13 Q. Do you know where the tug and
14 barge were located when you gave them that
15 go ahead?

16 A. I do not recall.

17 Q. Do you know how long they stood
18 by the bridge before getting underway?

19 A. I don't know.

20 Q. To your knowledge, was anyone
21 instructed to notify the Coast Guard about
22 the allision on June 15th, 2024?

23 A. No.

24

25

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1 MR. RODGERS: Is your last
2 question notified the Coast Guard on
3 the -- on June 15th? Is that what
4 your question was?

5 MR. CHAPMAN: I think so. Let
6 me to read it back.

7 MR. RODGERS: You understood he
8 was talking about the day of the
9 collision.

10 **THE WITNESS: He was asking if**
11 **we contacted on the day.**

12 MR. RODGERS: On the day of
13 the --

14 **THE WITNESS: Yeah, we -- yeah.**
15 **Right. No, we did not, no.**

16 MR. RODGERS: Yeah.

17 Q. And my question was whether
18 anybody was instructed -- whether you
19 contacted them or not, was anybody, to your
20 knowledge, instructed to contact the Coast
21 Guard about the allision on June 15th,
22 2024?

23 **A. No, not to my knowledge.**

24 Q. So when did anybody on behalf
25 of Carver first notify the Coast Guard of

LEONARD BALDASSARE

April 29, 2025

1 the allision?

2 **A. Monday.**

3 Q. Monday, June 17th?

4 **A. Yes, sir.**

5 Q. Okay. And was that because
6 Carver contacted the Coast Guard, or was it
7 because the Coast Guard contacted Carver?

8 **A. We contacted the Coast Guard.**

9 Q. Okay.

10 **A. Sector Norfolk, I believe it**
11 **was.**

12 Q. All right. And who made that
13 contact?

14 **A. I did.**

15 Q. Who'd you talk to?

16 **A. Lieutenant Palumbo.**

17 Q. So you called Sector Norfolk
18 for what reason?

19 **A. To report the allision with the**
20 **bridge.**

21 Q. And did you, sort of, when you
22 made that call, did you ask to speak to her
23 personally or did you -- how did that go
24 down?

25 **A. She just happened to answer the**

LEONARD BALDASSARE

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1 phone for the investigations number.

2 Q. That's who you called, was
3 investigations?

4 A. Yes. That's who you call to
5 report.

6 Q. To your knowledge, had the
7 Coast Guard contacted or attempted to
8 contact Harbor before you called Coast
9 Guard office in Norfolk to let --

10 A. To my knowledge, no.

11 Q. What caused you to contact the
12 Coast Guard on June 17th?

13 A. Brian Moore reached out to me
14 in the morning and said that we need to
15 call the Coast Guard to report the
16 allision.

17 Q. And did he tell you how he had
18 come to that conclusion?

19 A. He did not, no.

20 Q. He just told you to do it?

21 A. Yes.

22 Q. Where were you physically
23 working on Monday, June 17th?

24 A. In the office in Staten Island.

25 Q. And did you use your cell phone

LEONARD BALDASSARE

April 29, 2025

1 to call?

2 **A. I used my company cell phone to**
3 **make the phone call.**

4 Q. Okay. Thank you for that
5 clarification. What time did you make that
6 call?

7 **A. I don't recall. Sometime in**
8 **the morning, maybe around 9:00 or 10:00.**

9 Q. Did Brian Moore call you to
10 tell you to make that phone call?

11 **A. Yes, he did.**

12 Q. Did he send any e-mail or text
13 about making that phone call?

14 **A. No.**

15 Q. Okay. When he called you, was
16 there any discussion of why he had reached
17 the conclusion or what his reasons for
18 wanting you to call the Coast Guard were?

19 **A. No, there was not. He just**
20 **gave me the order to do it.**

21 Q. So how long was that
22 conversation?

23 **A. Few minutes.**

24 Q. And when you talked to
25 Lieutenant Palumbo that day, what did you

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1 tell her?

2 A. I told her that on Saturday, we
3 were coming through the bridge, we had
4 touched up on the fendering and that I was
5 going to be reporting it. She then
6 instructed me to fill out the Coast Guard
7 2692, which I did that day.

8 Q. On the 17th?

9 A. Yes, sir.

10 Q. And did you send a Coast Guard
11 2692 to the Coast Guard on June 17th?

12 A. I sent it to Brian for review,
13 and I believe he was the one that sent it.

14 Q. And did he copy you on the
15 submission to the Coast Guard?

16 A. I believe so.

17 Q. So to your memory, was it
18 e-mailed to the Coast Guard?

19 A. Yes. Usually -- yes. That's
20 how it's sent to them. It's e-mailed.

21 Q. All right. So there'd be some
22 e-mail reflecting that transmission?

23 A. Should be, yes.

24 Q. And you think Mr. Moore did it?

25 A. Yes.

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1 Q. You didn't?

2 **A. I did not, no.**

3 Q. What was your e-mail address
4 when you were employed by Carver?

5 MR. RODGERS: Your work
6 address, right?

7 MR. CHAPMAN: Yeah.

8 **A. lbaldassare@carvercompanies.com**
9 **.**

10 Q. At any time before you left
11 Carver, do you recall deleting any e-mails
12 that pertained to the allision with the
13 Norfolk Portsmouth Belt Line Bridge?

14 **A. No.**

15 Q. You know in Outlook you can set
16 up little folders to put e-mails that you
17 want to keep. Did you have a folder for
18 the allision or for this incident in your
19 e-mail?

20 **A. I did not, no.**

21 Q. So it would just be in your
22 general inbox or outbox?

23 **A. Yes.**

24 Q. Now, in connection with
25 contacting the Coast Guard, did you also

LEONARD BALDASSARE

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1 contact the Belt Line about the allision?

2 A. No.

3 Q. Why not?

4 A. I was not --

5

6

7 MR. RODGERS: Objection to
8 form. You can answer if you --

9 A. I was not obstructed
10 to -- instructed to, sorry.

11 Q. So did it occur to you that the
12 Belt Line should be contacted or notified?

13 A. No.

14 Q. In the initial conversation you
15 had with Mr. Moore, when he told you to
16 contact the Coast Guard and notify them of
17 the allision, did it come up that the Belt
18 Line should be contacted or there's no
19 reason to contact the Belt Line, anything
20 about contacting the Belt Line?

21 MR. RODGERS: Objection to
22 form. You can answer if you know.

23 A. No. Nothing came up in our
24 conversation about contacting the Belt
25 Line.

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1 Q. Yeah. So just to be clear, you
2 didn't suggest to Mr. Moore, "Hey, boss,
3 should I also contact the railroad in that
4 conversation?" Right?

5 **A. No.**

6 Q. And likewise, he didn't say,
7 "Hey, I want you to call the Coast Guard
8 and also call the Belt Line?"

9 **A. No, he did not say that.**

10 Q. Okay. So Mr. Moore told us
11 that you and he then investigated the
12 allision, right?

13 **A. Mm-hmm.**

14 MR. RODGERS: Objection to
15 form.

16 Q. Does that comport with your
17 recollection? Do you agree that both of
18 you were involved in investigating the
19 allision?

20 **A. Yes. I was up until I was out**
21 **10 days after on paternity leave.**

22 Q. So tell us what you did after
23 June 15th. It sounds like maybe it was
24 after June 17th, I don't know, but what you
25 did after June 15th to investigate this

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1 allision with the Belt Line Bridge?

2 A. When the boat got to the yard
3 after this voyage, I went on the boat and
4 spoke to the crew about what happened, and
5 they all told me the same story that they
6 had told me on the phone.

7 Q. Which was?

8 A. That when they were coming
9 through the bridge, Captain Morrissey had
10 got out of shape. He landed on the
11 fendering inside the bridge and slipped
12 through on the fendering, and that there
13 was no visible damage.

14 Q. And you say, "All of the crew,"
15 you -- did you talk to all five members of
16 the crew?

17 A. Yes.

18 Q. So just kind of run down,
19 Captain Miller, Captain Morrissey?

20 A. Yes.

21 Q. Engineer McGrath?

22 A. Yes.

23 Q. And both deck hands?

24 A. Yes.

25 Q. One's named Morrissey, and the

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1 other one is named Porter?

2 A. Yes.

3 Q. Right? You spoke to all of
4 them?

5 A. Yes.

6 Q. Did they provide you any
7 written statements?

8 A. They did, yes.

9 Q. And the written statements that
10 they provided, were -- did you take them up
11 while you were there on the boat?

12 A. No. I informed them that we
13 needed to get statements from everybody
14 explaining to their knowledge what happened
15 and that they were need -- they needed to
16 send them to myself and Brian.

17 Q. Okay. Had you received any
18 written statements from the boat before you
19 went aboard the vessel and interviewed the
20 crew members?

21 A. No.

22 Q. Did they prepare written
23 statements for you while you were on the
24 boat?

25 A. No.

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1 Q. So when did you receive written
2 statements from any member of the crew?

3 MR. RODGERS: Objection to
4 form. You can answer.

5 A. I don't recall exactly when
6 they sent everything to me, but I had
7 requested it, you know, when I was on the
8 boat on that day.

9 Q. So did you talk to the crew
10 members before you called the Coast Guard
11 on June 17th?

12 A. No, it was after.

13 Q. And did you talk to the crew
14 members the same day you talked to the
15 Coast Guard?

16 A. I believe it was that Monday,
17 yes.

18 Q. But it would've been after
19 talking to Lieutenant Palumbo --

20 A. Yes.

21 Q. -- that you interviewed the
22 crew members?

23 A. Yes.

24 Q. When you went down to the
25 vessel, did you inspect it to see whether

LEONARD BALDASSARE

April 29, 2025

1 there was any damage to it?

2 **A. Yes. Myself and Engineer**
3 **McGrath walked down the engine room, up**
4 **into the forward hold just to make sure**
5 **that there was no damage, and we did not**
6 **see any damage on the vessel.**

7 Q. That's the tugboat?

8 **A. Yes, sir.**

9 Q. Right. Did you inspect the
10 barge at all?

11 **A. I did not inspect the barge,**
12 **no.**

13 Q. When you boarded the vessel,
14 was the barge still made up to it?

15 **A. No.**

16 Q. Had the barge already been
17 delivered to the job site?

18 **A. Yes.**

19 Q. So the Tug Mackenzie Rose
20 arrived at the dock where you boarded it in
21 what they call "a light boat condition?"

22 **A. Yes, sir.**

23 Q. Didn't have any barge, right?

24 **A. No barge, just the tug.**

25 Q. And what dock did you go to to

LEONARD BALDASSARE

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1 board the vessel?

2 **A. It was our yard in Staten**
3 **Island where our office is.**

4 Q. And the job site where the
5 barge had been delivered was how far away?

6 **A. I'm not sure. It was a few**
7 **miles. It wasn't like right there.**

8 Q. It was over New Jersey?

9 **A. Yes.**

10 Q. Did you make any effort to
11 inspect the barge?

12 **A. No. It was not my privy to do**
13 **the inspection on the barge, that was going**
14 **to be handled by other parties.**

15 Q. So did the Coast Guard -- well,
16 let me back up.

17 You got written statements from
18 the crew, did they prepare them themselves?

19 **A. Yes.**

20 Q. They did?

21 **A. Yes.**

22 Q. And when you received the
23 written statements, were they typed up on
24 company letter head or were they
25 handwritten, or what?

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1 **A. No, they were handwritten.**

2 Q. Who gave them to you?

3 **A. I think Captain Miller gave**
4 **them to me, if I remember correctly.**

5 Q. Did he give you the original
6 handwritten statements?

7 **A. I don't recall. I think he did**
8 **hand them to me, but I don't recall.**

9 Q. Is it possible that they were
10 scanned and e-mail to you?

11 **A. Possibly.**

12

13

14 MR. RODGERS: Don't guess.

15 **A. Possibly.**

16 Q. Does the Tug Mackenzie Rose
17 have the capability of scanning a document?

18 **A. Yes.**

19 Q. Were the statements that you
20 received from the crew, they would've been,
21 I guess, one written statement for each
22 member of the crew, right?

23 **A. Yes.**

24 Q. Did you ever receive any type
25 of typed-up statement from members of the

1 crew?

2 **A. No.**

3 Q. Did you ever speak with any
4 member of the crew about the allision with
5 the bridge after that initial meeting that
6 you had to interview them?

7 **A. No. Like I said, I went out a**
8 **few days later on paternity leave, so it**
9 **was just that one instance.**

10 Q. When you went aboard the vessel
11 to interview them, where did the interviews
12 take place?

13 **A. I interviewed Captain Miller**
14 **and Morrissey in the wheel house, and the**
15 **rest of the crew in the galley.**

16 Q. And when you interviewed them,
17 were both Miller and Morrissey with you in
18 the wheelhouse when you talked to them?

19 **A. No, I separated them.**

20 Q. All right. Same question about
21 the other crew members, were they all
22 together in the gallery when you talked to
23 them?

24 **A. I spoke to both deckhands**
25 **together in the galley, and I spoke to the**

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1 engineer alone in the galley.

2 Q. Is there anything that would
3 help you nail down the actual date and time
4 if possible when you conducted these
5 interviews aboard the vessel?

6 A. No.

7 Q. You just believe that it was
8 sometime later the day that you initially
9 contacted the Coast Guard, correct?

10 A. Yes.

11 Q. How soon after those interviews
12 did you receive the written statements that
13 you described?

14 A. Like I said before, I don't
15 really remember. I think it might have
16 been the next day, but I'm not 100 percent
17 sure.

18 Q. At any time before you went out
19 on paternity leave, did you talk to Nick
20 Laraway about the allision?

21 A. No.

22 Q. Did you talk to anyone
23 internally at Carver about the allision
24 besides Mr. Moore, or the five members of
25 the crew of the Tug Mackenzie Rose?

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1 A. No, I did not.

2 Q. Was there a written report of
3 your investigation prepared?

4 A. Did I -- me, personally?

5 Q. Yes.

6 A. No.

7 Q. You mentioned filing out a
8 2692. Do you consider that a written
9 report?

10 MR. RODGERS: Objection to
11 form. You can answer his question if
12 you understand it.

13 A. Yes.

14 Q. Okay. So there's at least a
15 2692 that you filled out as a result of
16 your investigation, right?

17 A. Yes.

18 Q. And you -- your memory is that
19 you sent that 2692 to Mr. Moore and then he
20 sent it to the Coast Guard?

21 A. Yes.

22 Q. Right. Not you, correct?

23 A. No, I did not. He did.

24 Q. All right. Was there any
25 report that was filled out or completed in

LEONARD BALDASSARE

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1 the Helm system about this incident about
2 the allision?

3 **A. I did not personally fill**
4 **anything out, no.**

5 Q. Would you expect there to be a
6 form that gets filled out about an incident
7 like this in the Helm system?

8 **A. I'm not really sure.**

9 Q. Have you seen reports from the
10 Helm system about the incidents involving
11 vessels?

12 **A. Not in my time at Carver, no.**

13 Q. You have access to the Helm
14 system?

15 **A. Yes.**

16 Q. So you've got login credentials
17 as Mr. Baldassare -- Leonard Baldassare,
18 correct?

19 **A. Yes.**

20 Q. Is there anything you can't
21 view in the Helm system?

22 MR. RODGERS: Meaning

23 Mr. Baldassare?

24 MR. CHAPMAN: Yeah.

25 **A. I'm sure there are. There's**

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1 different like categories based on
2 department. So like I don't know if I was
3 able to access like all the engineering
4 stuff because I technically wouldn't really
5 need it, but I'm sure there are, yes.

6 Q. Okay. Let me pass over to you
7 what's been marked as Exhibit 1 for these
8 depositions. That's just a print of a
9 photograph that was provided to us in the
10 discovery process. I realize it's a little
11 grainy.

12 (Whereupon, Exhibit 1 was
13 marked for identification.)

14 Have you seen that before?

15 A. Yes.

16 Q. Okay. And the image that
17 you've seen before wasn't as grainy?

18 A. It was not, no.

19 Q. Okay. You could see it clearly
20 on your phone, I take it?

21 A. Yes.

22 Q. And tell us what that is then?

23 A. This is the bridge, and this is
24 the fendering inside of the bridge.

25 Q. Can you tell what vantage point

LEONARD BALDASSARE

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1 that photograph was taken from?

2 A. I'm not sure. I don't know.

3 Q. And -- but this was one of the
4 photos that was sent to you on June 15th?

5 A. Yes.

6 Q. From the tug?

7 A. Yes.

8 Q. All right. Do you see any
9 damage to the bridge in that photo?

10 A. I do not, no.

11 Q. Can you hand that to me just
12 for one second?

13 A. Sure. There you go.

14 Q. Actually, you can keep it in
15 front of you.

16 A. Are you sure?

17 Q. Yeah. Once we get a good image
18 of this, I may need to ask you some more
19 questions in the future. But what I want
20 to know now is looking at this at the very
21 top of the photograph, does it appear that
22 the bridge is offset from the pier to you?

23 MR. RODGERS: Objection.

24 MR. CHAPMAN: I'm just asking
25 what he sees.

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1 **A.** I've never seen this bridge in
2 person, so I really can't answer what it is
3 or isn't supposed to look like.

4 Q. Okay. And you can put that on
5 the side or -- yeah, we'll just put it
6 right here.

7 **A.** **Sure.**

8 Q. So let me pass you what's been
9 marked as Exhibit 2.

10 (Whereupon, Exhibit 2 was
11 marked for identification.)

12 **A.** **Sure.**

13 Q. So four more photos.

14 Are those the copies of the
15 photos of the barge that you received by
16 text?

17 **A.** **Yes, they are.**

18 Q. Okay. Again, they're a little
19 grainy, but I assume that whatever you were
20 able to see on your phone was clearer than
21 this?

22 **A.** **Yes, it was.**

23 Q. And what were
24 you -- what -- did you ask them to provide
25 pictures of the barge?

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1 **A. I did, yes.**

2 Q. All right. And were these
3 pictures sufficient to satisfy you that
4 there was no damage to the barge?

5 **A. Yes, there were.**

6 Q. Did you tell them specifically
7 what areas of the barge to take picture of?

8 **A. No.**

9 Q. These photos all appear to
10 depict the forward end, the raked end of
11 the barge --

12 **A. Yes.**

13 Q. -- in some fashion, correct?

14 **A. Yes, sir.**

15 Q. There's no photos of the stern
16 of the barge?

17 **A. No, there are not.**

18 Q. And there's one photo where you
19 can sort of see the port side of the barge?

20 **A. This last one?**

21 Q. Yeah, Number 248 in the
22 exhibit.

23 **A. Yeah, I got it.**

24 Q. But there's nothing of the
25 starboard side?

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1 A. No.

2 Q. Okay. And it looks like this
3 barge is equipped with a rub system
4 consisting of tires hanging over the side,
5 right?

6 A. Yes.

7 Q. Did Captain Miller or any
8 member of the crew indicate which side of
9 the barge contacted the fender system when
10 you interviewed them?

11 A. They did not.

12 Q. Did they say whether -- was
13 there any information provided to you by
14 the crew as to which side of the bridge
15 they contacted?

16 A. No, not specifically. I would
17 assume that it was this --

18

19

20 MR. RODGERS: Don't guess.

21 Tell him what you no.

22 A. No, they did not. They did
23 not.

24 Q. Okay.

25 A. They sent me this photo.

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1 Q. That's Exhibit 1?

2 A. Correct.

3 Q. All right. But you don't know
4 whether that's in east side, west side,
5 north side or south side, right?

6 A. I do not know. I just know
7 from what the photo --

8 Q. Okay.

9 A. -- that they sent me.

10 Q. Okay. Let me pass you Exhibit
11 6, which was produced to us in discovery.

12 Does that appear to be a
13 collection of daily logs from the Mackenzie
14 Rose beginning June 12th, 2024?

15 (Whereupon, Exhibit 6 was
16 marked for identification.)

17 A. Yes.

18 Q. And this is printed out from
19 the Helm system, correct?

20 A. Yes.

21 Q. Right. So if you turn to the
22 June 15th, '24, daily log, these -- it has
23 numbers at the bottom of the page, it says,
24 "Carver phone number?"

25 A. Yeah.

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1 Q. You're looking for 56.

2 A. 56?

3 Q. Yeah.

4 A. Got it.

5 Q. Got it. Okay. So at the
6 bottom of the page -- so we know that the
7 accident was on June 15th --

8 A. Yes.

9 Q. 2024. This appears to be the
10 daily log for that, right?

11 A. Mm-hmm.

12 Q. Would've been completed by the
13 master or the mate, or both of them, right?

14 A. Yes.

15 Q. So at 16:30, it says there's an
16 incident. It says, "Mate James Morrissey
17 reports the autopilot was not completely
18 turned off. He was able to correct and
19 switch back over to hand steering and begin
20 backing on the weeks 281 barge and
21 maneuvering the barge alongside fendering
22 on the northend P-B-L-R-R Bridge, photo
23 taken, proceed slowly away from bridge."

24 I read that correctly?

25 A. Yes.

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1 Q. So in any of your conversations
2 with Captain Miller or the interviews of
3 the crew on the -- whatever day it was, was
4 there any mention of the autopilot somehow
5 being involved in this casualty?

6 A. No, there was not.

7 Q. Nobody said that?

8 A. Nobody said that to me.

9 Q. Did you ever ask --

10 A. I did not.

11 Q. -- whether they were on
12 autopilot or not?

13 A. No.

14 Q. In making bridge transits,
15 would you expect them to not to be in
16 autopilot?

17 MR. RODGERS: Objection to
18 form. You can answer.

19 A. Say that again, I'm sorry.

20 Q. I'm just --

21 MR. RODGERS: He's not here as
22 an expert, but he can answer as to
23 his knowledge.

24 A. No. There would be no reason
25 for them to be in autopilot when

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1 **approaching the bridge.**

2 Q. You would expect them not to be
3 on autopilot?

4 **A. Correct, they should be**
5 **hand-steering.**

6 Q. Okay. We can put that back in
7 the pile here, sir.

8 MR. RODGERS: Do you need water
9 or coffee?

10 **THE WITNESS: No, I'm okay.**

11 MR. RODGERS: You're okay?

12 **THE WITNESS: Yeah.**

13 MR. CHAPMAN: Are we okay time
14 wise?

15 THE REPORTER: Five minutes.

16 MR. CHAPMAN: We got five
17 minutes? Why don't we just go ahead
18 and take a break. I'll regroup and
19 try to --

20 MR. RODGERS: Sure.

21 MR. CHAPMAN: Okay.

22 THE REPORTER: Yes?

23 MR. RODGERS: Yeah, we're
24 ready. We don't need to regroup.
25 Let's go off the record.

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1 THE VIDEOGRAPHER: We are going
2 off the record, the time is 11:44
3 a.m.

4 Off the record.

5 (Whereupon, a short recess was
6 taken.)

7 THE VIDEOGRAPHER: Beginning
8 Media Number 2.

9 We are back on the record, the
10 time is 12:02 p.m.

11 Q. All right. I tried to get a
12 little organized here.

13 A. Sure.

14 Q. I'm going to give you five
15 exhibits that I believe are the written
16 statements you talked about.

17 A. Okay.

18 Q. And they're stapled together
19 with some typed-up versions of the
20 statements as well. But I want you to just
21 focus on Page 1 of each of these
22 exhibits --

23 A. Yes, sir.

24 Q. -- to confirm this for me.
25 But it is Exhibits 9, 11, 13, 15, and 17.

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1 THE VIDEOGRAPHER: Let me
2 apologize. Counsel, please, your
3 microphone.

4 MR. CHAPMAN: Did you hear that
5 okay or not? Is it on the record?

6 THE VIDEOGRAPHER: Yes, but I
7 hear the noise.

8 MR. CHAPMAN. Apologies.

9 Q. So the first one is signed to
10 Captain Chris Miller, Number 9. Is that
11 the written statement that you received
12 from Captain Miller?

13 A. Yes.

14 Q. All right. And then moving on
15 to 11, that first page. Is that the
16 written statement you received from
17 deckhand Jacques Bass Morrissey?

18 A. Yes.

19 Q. And then the next one, Exhibit
20 13, the first page, is that the witness
21 statement you received from Engineer Jason
22 McGrath?

23 A. Yes.

24 Q. And then Exhibit 15, the first
25 page is that the written --

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1 **A. Wait, this says Exhibit 17.**

2 Q. I'm sorry, it should -- didn't
3 I have 15 now?

4 **A. Oh, yeah. I only have four.**
5 **You said --**

6 Q. -- might be one. You got 15?

7 **A. Sorry. Yes, I got 15.**

8 Q. Okay, good.

9 **A. Sorry about that.**

10 Q. So 15, the first page, is that
11 the statement you received from deckhand
12 Sharif Porter?

13 **A. Yes.**

14 Q. All right. And then the last
15 one, which is Exhibit 17. It's not signed,
16 but is that the witness statement that you
17 received from Captain Morrissey?

18 **A. I'm not sure if this is**
19 **handwriting, but it could be his, yeah.**

20 MR. RODGERS: Jim, when
21 you -- you're talking about the first
22 page --

23 MR. CHAPMAN: Just the first
24 page.

25 MR. RODGERS: -- of the

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1 exhibit, right.

2 MR. CHAPMAN: Yeah.

3 MR. RODGERS: Okay.

4 MR. CHAPMAN: Yeah.

5 Q. Yes. So just -- it says,
6 "Outbound Norfolk Southern branch with
7 weeks 281." That's the barge that the
8 Mackenzie Rose was pushing at the time,
9 right?

10 A. Correct, yes.

11 Q. Okay. And it talks about
12 touching on the bridge, no damage to barge,
13 and no visible damage to bridge.

14 A. Mm-hmm.

15 Q. So if we have accounted for the
16 other four statements that do have names on
17 them, does this -- does that in any way
18 refresh your recollection that this is the
19 one you received from Captain Morrissey?

20 A. Yes.

21 Q. Okay. And just to be clear,
22 the written statements are -- the first
23 page of each of the exhibits are the only
24 statements that you received during the
25 course of your investigation?

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1 A. Yes.

2 Q. Right? Okay. So I do want to
3 ask you a question or two about some of the
4 other documents that are attached within
5 these exhibits.

6 A. Okay.

7 Q. So if we start with Number 9,
8 the one from Captain Miller?

9 A. Mm-hmm.

10 Q. There's a -- I'll call it a
11 typed-up version of his statement, right?

12 A. Yes.

13 Q. During the course of your
14 investigation, did you ever see this
15 statement?

16 A. No.

17 Q. Did -- you didn't request it
18 then--

19 A. No.

20 Q. -- from Captain Miller?
21 Do you know if anybody else
22 requested a typed-up version of this
23 statement?

24 A. I don't know.

25 Q. Okay. And then the third page

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1 of Exhibit 9, which is numbered Carver
2 000049, looks like it's on some kind of
3 Carver Marine Towing letterhead?

4 (Whereupon, Exhibit 9 was
5 marked for identification.)

6 A. Yes.

7 Q. Right. Did you ever receive
8 this as part of your investigation?

9 A. No, I did not.

10 Q. Okay. And before you went out
11 on paternity leave, had this ever showed up
12 to your knowledge?

13 A. No. Not to my knowledge, no.

14 Q. Okay. Do you have any
15 understanding of who may have requested or
16 solicited either of these two typed
17 statements from Captain Miller?

18 A. I do not know who would have.

19 Q. All right. So all of these
20 other statements are similarly
21 done -- these exhibits are similarly done.
22 If you look at them you'll see the
23 deckhands, the engineer?

24 A. Yes.

25 Q. They all --

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1 **A. The same format.**

2 Q. There's a typed-up version and
3 then there's a -- something on the company
4 type letterhead?

5 **A. Right.**

6 Q. Okay. And you've never seen
7 those at any point during your
8 investigation?

9 **A. No, I have not.**

10 Q. And the one for Captain
11 Morrissey does not have that, kind of, last
12 page with the letterhead typed-up
13 statement?

14 **A. Right.**

15 Q. Right. Okay. But the other
16 four do?

17 **A. Correct.**

18 Q. Yep. At any time before you
19 left Carver, did you ever see those
20 typed-up versions of any of these
21 statements?

22 **A. No, I have not.**

23 Q. Anybody ever tell you or lead
24 you to believe that there were type-up
25 versions of those statements?

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1 A. No.

2 Q. Before today, have you see
3 them?

4 MR. RODGERS: Other than with
5 his attorney?

6 MR. CHAPMAN: Yeah.

7 A. Just with my attorney.

8 Q. Okay. And that's been recent?

9 A. Yes.

10 Q. Okay. Any explanation to your
11 knowledge, you know, within your knowledge
12 as to why there are typed-up versions in
13 addition to the handwritten ones?

14 A. No.

15 Q. And just looking at the
16 handwritten ones in each of these five
17 exhibits, does that refresh your
18 recollection whether you were given like
19 the original version -- the original, you
20 know, written out version versus them being
21 e-mailed to you, or photocopied and
22 delivered to you?

23 A. They might have been like
24 handed to me.

25 Q. Okay. And then it looks like

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1 on some of sort of small notepad.

2 **A. Yes.**

3 Q. Do you remember the color of
4 the paper?

5 **A. I do not.**

6 Q. Okay. Do you know or recall
7 whether these statements -- the handwritten
8 statements, had already been prepared
9 before you interviewed the crew?

10 **A. The -- when they got back to**
11 **New York harbor?**

12 Q. Yes.

13 **A. No. This wasn't -- these**
14 **weren't -- no. This was after I had**
15 **already spoken to everyone.**

16 Q. Let me pass to you Exhibit 19,
17 Captain -- or Mr. Baldassare, which I
18 believe is the compilation of the 2692
19 filled with the United States Coast Guard?

20 **A. Yes.**

21 Q. If you look at the first page
22 there -- excuse me -- the second page, the
23 bottom of the second page, it has a
24 signature on it as to who completed it or
25 signed it --

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1 A. Right.

2 Q. -- and sent it out. And it's
3 signed by Mr. Moore, correct?

4 A. Correct.

5 Q. Not you. Did you ever sign
6 it --

7 MR. RODGERS: I'm sorry. Do
8 you mean the electronic signature, or
9 is it --

10 MR. CHAPMAN: Yeah. It's got a
11 digital signature on there.

12 Q. You see the digital signature?

13 A. Yes.

14 Q. And what's -- might as well
15 read it. What's the date and time?

16 A. For the digital?

17 Q. Yes.

18 A. June 26, 2024, 08:48.

19 Q. Okay. Do you recall ever
20 signing a 2692 that was submitted to the
21 Coast Guard in connection with this
22 investigation?

23 A. No. I was out on paternity
24 leave when this was submitted.

25 Q. Yeah. But my question is,

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1 before you went out on paternity leave, did
2 you ever sign a 2692 that was submitted to
3 the Coast Guard?

4 A. I filled out the 2692 that we
5 discussed earlier that I sent to Brian,
6 that he was going to be reviewing and
7 sending to the Coast Guard.

8 Q. So the original 2692 that you
9 sent to Mr. Moore, what did it say it
10 happened to the bridge?

11 A. Exactly what the vessel told me
12 when they called me on Saturday that they
13 had gotten out of shape coming through,
14 that they landed on the fendering inside of
15 the bridge, slid along the fendering and
16 that there was no visible damage.

17 Q. And do you know whether
18 Mr. Moore ever submitted that to the Coast
19 Guard?

20 A. I do not know.

21 Q. If you look on Page 1, and
22 Block 10 of this exhibit?

23 A. You said Block 10?

24 Q. Block 10.

25 A. Yep.

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1 Q. It says, "The above vessel was
2 involved in a marine casualty consisting
3 in -- " and there's a bunch of things you
4 could check off.

5 A. Yep.

6 Q. The first one is checked,
7 right?

8 A. Yes, sir.

9 Q. "Unintended grounding or an
10 unintended strike of (allision with) a
11 bridge," right?

12 A. Yes.

13 Q. The draft or form that you
14 filled out and sent to Mr. Moore, was that
15 box checked?

16 A. I don't recall.

17 Q. And if you look down in Block
18 20, titled -- under Section 4, casualty
19 information?

20 A. Got it.

21 Q. It says, "Describe the extent
22 of property damage."

23 A. Mm-hmm.

24 Q. And it says, "Northend TBL
25 Railroad Bridge was offset from its

1 foundation."

2 Did it say that in the draft
3 that you sent to Mr. Moore?

4 A. No.

5 Q. What did it say?

6 A. I don't recall, but it didn't
7 say that.

8 Q. Okay. If you turn to the next
9 page of Exhibit 19, which is Carver
10 0000112, it's like the next page of the
11 2692.

12 A. Yep.

13 Q. Under Block 25 --

14 A. Yep.

15 Q. -- A, under, "Activity or
16 operation being conducted at the time of
17 the casualty," it describes -- I mean, I'll
18 just read it. "The towing vessel Mackenzie
19 Rose was pushing the deck barge weeks 281
20 ahead and push gear. They were outbound at
21 the Norfolk Southern branch for sea. The
22 officer on watch, James Morrissey, was in
23 autopilot and didn't switch over to non
24 follow up hand steering, but thought he
25 did. The vessel continued to track the

1 port and made -- and before the officer,
2 they -- " excuse me. "Before the OOW was
3 able to correct it after switching to non
4 follow up, the bow of the barge made
5 contact with the Western section of the
6 bridge." The draft that you sent to
7 Mr. Moore, did it include that statement?

8 **A. No. Because that's not the**
9 **information that I was given.**

10 Q. Okay. What do you recall it
11 saying?

12 **A. Exactly what I said before. As**
13 **they were coming through the bridge, they**
14 **got out of shape, landed on the fendering,**
15 **and slid through the bridge, and that there**
16 **was no physical damage to the bridge,**
17 **vessel or barge.**

18 Q. So during the course of your
19 investigation before you went on paternity
20 leave, did you ever learn that this is in
21 fact what happened as described in Block
22 25A of this exhibit?

23 **A. No.**

24 Q. Never learned that?

25 **A. No.**

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1 Q. When was the first time you
2 learned that this is the report that was
3 submitted to the Coast Guard?
4

5
6 MR. RODGERS: Other than with
7 me.

8 Q. Well --

9 A. Just this morning with
10 Jim -- with Mr. Rodgers.

11 MR. RODGERS: You don't
12 want -- need to tell him what we
13 discussed.

14 Q. That -- so prior to you meeting
15 with the attorney for Carver today, you did
16 not know that this was the report that was
17 submitted to the Coast Guard in connection
18 with allision with the bridge?

19 A. Correct, I did not know.

20 Q. Okay. So if you go to the next
21 page.

22 A. Yep.

23 Q. There's some instructions about
24 completing the form in about the middle of
25 the page. You'll see Number 6?

1 **A. Yep.**

2 Q. "Once completed, deliver e-mail
3 or fax this form within five days of the
4 casualty to the Coast Guard sector Marine
5 safety unit, or activity nearest the
6 location of the casualty, or if at sea,
7 nearest the arrival port." Then
8 there's -- looks like there's a -- some
9 portal in the cloud that you could log
10 into.

11 **A. Yep.**

12 Q. This form is not signed by
13 Mr. Moore until digitally on June 26th,
14 2024?

15 **A. Correct.**

16 Q. So that's like 11 days post
17 casualty, right?

18 **A. Yes.**

19 Q. Okay. Do you know if any form
20 2692 was submitted to the Coast Guard
21 within the five-day requirement?

22 **A. I do not know.**

23 Q. So if you turn to the next
24 page. This is Carver 0000114, and it's the
25 form 2692B regarding mandatory drug

1 testing?

2 A. Yep.

3 Q. Right. Generally, any time
4 there is a marine casualty, marine incident
5 like this, the crew is supposed to be
6 tested for drugs and alcohol, right?

7 A. Yes.

8 Q. Okay. And there's a -- the
9 Coast Guard's laid out pretty narrow time
10 limits for getting that done, right?

11 A. Yes.

12 Q. So this report is basically
13 saying that there was no drug testing,
14 there was no alcohol testing,
15 post-incident, right?

16 A. Correct.

17 MR. RODGERS: Just for the
18 record, it says within 32 hours.

19 Q. So in Block 7, it says, "In the
20 incident in question from June 15th, 2024,
21 there was no evidence of loss of
22 propulsion, loss of steering or damage to
23 the vessel and its barge, and a drug and
24 alcohol test would only be administered if
25 the above incidents occurred."

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1 Leaving aside whether that's a
2 correct interpretation or regulation, okay,
3 I'm not really worried about that, did you
4 draft that?

5 **A. I believe so, yes.**

6 Q. Okay. And I ask because it
7 appears to be signed by you digitally,
8 right?

9 **A. Yes.**

10 Q. Now, would a 2692B be submitted
11 without the 2692 form --

12 **A. No.**

13 Q. -- or would they go hand and
14 hand?

15 **A. They all get submitted**
16 **together.**

17 Q. Okay. So your digital
18 signature on here is dated June 19th, 2024?

19 **A. Yes.**

20 Q. Right? So does that in any way
21 refresh your recollection that you signed a
22 2692 form that was submitted on June 19th,
23 2024 to the Coast Guard?

24 **A. No.**

25 Q. And you --

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1 **A.** I filled out the 2692 on the
2 17th and sent it to Brian for review --

3 Q. Okay.

4 **A.** -- and submission.

5 Q. All right. But it appears that
6 you filed this 2692B out on the 19th,
7 right?

8 **A.** Yes.

9 Q. And who would've been
10 responsible for then submitting it to the
11 Coast Guard?

12 **A.** Brian.

13 Q. But you don't believe that you
14 signed the 2692 form, correct?

15 MR. RODGERS: Objection to
16 form. I'm not sure he testified to
17 that.

18 **A.** I'm not really sure what you're
19 asking me. Are you asking me about the
20 first part of this?

21 Q. Yeah.

22 **A.** Yeah. This is -- I
23 didn't -- this is all Brian, this not me.

24 Q. Yeah. No. I get the 2692
25 that's in this exhibit.

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1 **A. Okay.**

2 Q. What I'm trying to find out is
3 whether you have any memory of actually
4 signing the 2692 form that was submitted to
5 the Coast Guard that would've accompanied
6 this 2692B form that's in Exhibit 19?

7 **A. Yes. I filled it out on the**
8 **17th, sent it to Brian for his review and**
9 **submission. What he did with it from**
10 **there, I don't know.**

11 Q. So how was it that then you
12 came to fill out the 2692B on June 19th?

13 **A. I don't know.**

14 Q. Did you send it after you
15 signed it to Mr. Moore?

16 **A. On the 17th.**

17 Q. Well, we can agree that you
18 didn't sign this on the 17th of June. That
19 is the 2692B, right?

20 **A. Yeah.**

21 Q. Okay. Well, all I'm trying to
22 find out is after you signed it, the 2692B,
23 on June 19th, did you then send it to
24 Mr. Moore?

25 **A. Yes.**

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1 Q. Okay. And you did not file the
2 2692B with the Coast Guard?

3 A. No.

4 Q. Okay. The last part of this
5 form in Exhibit 19 is the 2692A?

6 A. Mm-hmm.

7 Q. Which is a barge addendum for a
8 report under 2692, and it is numbered
9 Carver 00016. You see that?

10 A. Yep.

11 Q. It doesn't say who filled it
12 out. There's no place on this form where
13 you add a name of somebody completing this
14 form. Do you recall whether you completed
15 this form, the barge addendum?

16 A. I do not recall.

17 Q. It -- in Block 3K, or at least
18 the description, the property damage next
19 to it, it says, "Displacement of Belt Line
20 bridge support structure." You see that?

21 A. Yes.

22 Q. Is that something you would've
23 drafted?

24 A. No.

25 Q. And you are pretty certain of

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1 that? I just -- how is it that you --

2

3

4 MR. RODGERS: Objection to
5 form.

6 Q. How is it that you know that
7 you didn't draft it?

8 MR. RODGERS: You can answer
9 that.

10 Q. Yeah.

11 MR. RODGERS: If you know.

12 **A. Because the information**
13 **provided to me during the time when this**
14 **was filled out, never was this statement**
15 **told me to from anyone about the support**
16 **structure issue.**

17 Q. You went out on paternity leave
18 on the 26th --

19 **A. No.**

20 Q. -- of June?

21 **A. The 24th.**

22 Q. 24th of June?

23 **A. Yes.**

24 Q. Okay. I'm sorry. We learned
25 from Mr. Moore that somebody from the

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1 National Transportation Safety Board and
2 from Coast Guard interviewed crew members
3 on the Mackenzie Rose on June 25th --

4 MR. RODGERS: Objection to
5 form.

6 Q. -- of 2024. I know that was
7 after you left on paternity leave. But did
8 you have any assistance or role in setting
9 up those interviews?

10 **A. No.**

11 Q. Do you know who handled that?

12 **A. I do not know.**

13

14

15 MR. RODGERS: This for me.

16 **THE WITNESS: I'm good. Thank**
17 **you.**

18 Q. As part of your
19 responsibilities as Port Captain when you
20 were working for Carver, did you ever run
21 reports, I'll say in the Helm system to
22 look at specific things or to, kind of,
23 figure out what was going on?

24 **A. No, not daily. If there was an**
25 **incident or issue or something then, yeah,**

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1 I would -- I could pull something up. But
2 it wasn't part of my daily tasks to run
3 reports.

4 Q. Got you. Was it in any way in
5 your responsibility to like, I don't know,
6 review the daily logs that were submitted
7 by the vessel or that sort of thing? Maybe
8 weekly task, monthly task, anything like
9 that?

10 A. Only if there was an issue with
11 something on the boat for billing purposes.

12 Q. So it was all incident --

13 A. Correct.

14 Q. -- specific?

15 A. Correct.

16 Q. Okay. Was there anybody at
17 Carver Marine Towing when you were the Port
18 Captain that had specific responsibility
19 for training of new hires? A person like a
20 training manager or training director, that
21 sort of thing?

22 A. No, not to my knowledge.

23 MR. RODGERS: You're talking
24 about the crew or generally?

25 MR. CHAPMAN: Well, that's a

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1 great question.

2 MR. RODGERS: Don't adopt my
3 questions.

4 MR. CHAPMAN: No, no.

5 Q. So there's seven tugs, right?

6 **A. Yes, sir.**

7 Q. Seven inspected vessels, maybe
8 some uninspected vessels. How many people
9 work for Carver Marine Towing when you were
10 a Port Captain before you -- you know, at
11 about the time you -- well, mid June of
12 2024?

13 **A. That would be -- if you want to**
14 **include the dispatchers, eight people.**

15 Q. Okay. And you don't think of
16 the crew members as being within that
17 universe?

18 **A. Oh, I thought you were just**
19 **talking shore side. If you want to include**
20 **all the crew members --**

21 Q. Yeah.

22 **A. -- figure 10 guys per boat, so**
23 **that's 70 people.**

24 Q. Okay.

25 **A. Plus the shore side staff, so**

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1 **75 to 80 people.**

2 Q. Okay. And among the shore side
3 folks, nobody was like the training manager
4 or training director?

5 **A. No.**

6 Q. Among the -- I don't know what
7 you call them, the crews, there wasn't
8 anybody that like had the title of being
9 training director?

10 **A. No.**

11 Q. Okay. Among the shore side
12 personnel, was there anybody that had the
13 assigned responsibility of being the safety
14 manager?

15 **A. Yes.**

16 Q. And who was that?

17 **THE WITNESS: It's okay to --**

18 MR. RODGERS: Yeah.

19 **A. Yeah. Jason (indiscernible)**
20 **was the HSQE advisor.**

21 Q. What does HSQE stand for?

22 **A. Health Safety Environmental**
23 **something. He was the safety and**
24 **compliance officer.**

25 Q. And when -- was he hired after

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1 you started working there?

2 **A. He was, yes.**

3 Q. And how -- just in relationship
4 to the allision, how long before the
5 allision with the Belt Line bridge was he
6 hired?

7 **A. A month or two.**

8 Q. Was he hired for that specific
9 role?

10 **A. No.**

11 Q. What was he hired for?

12 **A. Originally as a dispatcher.**

13 Q. So when did he become
14 the -- you called it the H --

15 **A. Health and safety officer.**

16 Q. Health and safety officer.

17 **A. Yeah.**

18 Q. When did he take on that
19 responsibility? Before or after the
20 allision?

21 **A. I believe it was right before,**
22 **but I don't -- I can't give you an exact**
23 **timeline.**

24 Q. Was he still with Carver when
25 you left?

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1 A. Yes.

2 Q. Was he still in the same role?

3 A. Yes.

4 Q. Let me show you Exhibit 21 that
5 was produced to us by Carver. And at the
6 top -- I don't know who added this, it
7 says, "Screenshot from Helm event." You
8 see that?

9 A. Yeah.

10 Q. When you go to the Helm system
11 and you look up an incident -- maybe you
12 got to put in the date, time, I don't know,
13 but is this the view that you would get of
14 an incident?

15 A. I think it would show up a
16 little differently on mine, so I don't
17 know. I -- mine was a little bit of a
18 different view.

19 Q. Okay. This language here, I
20 believe is shown on Exhibit 21 is identical
21 to the statement that appears in Exhibit 6,
22 on page Carver 000056 regarding the
23 incident. I just want to pass you Exhibit
24 6.

25 A. Yeah, right here at 16:30?

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1 Q. Yeah.

2 **A. Yep.**

3 Q. It says -- I believe they're
4 word for word?

5 MR. RODGERS: What's your -- do
6 you have a question?

7 Q. Yeah. The question is, are
8 they word for word? Is there any
9 difference between the two?

10 **A. No, it's word for word.**

11 Q. Okay. So the daily log,
12 Exhibit 6, for June 15th, would've been
13 completed on June 15th, correct?

14 **A. Correct.**

15 Q. All right. And then it
16 would've been available to view in the Helm
17 system as an incident that occurred on that
18 date, right?

19 **A. Yes.**

20 Q. Okay. So at least at some
21 point on June 15th, somebody, Captain
22 Miller or Captain Morrissey, entered a note
23 about the incident at 16:30 hours involving
24 the bridge in which they described the use
25 of the autopilot, right?

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1 **A. Correct.**

2 Q. But you didn't know about that
3 when you conducted your investigation?

4 **A. No, I did not.**

5 Q. Did you ever go look in the
6 Helm system to see what they had entered
7 about the incident?

8 **A. No. Am I able to ask Jim a**
9 **question, like -- no?**

10 Q. Yeah. So here's the deal.
11 When we're doing depositions, it's just
12 like we are testifying at trial.

13 **A. Sure.**

14 Q. You're testifying in trial. So
15 you wouldn't turn to a lawyer in trial and
16 say, "Hey, I need to ask a question."
17 Judge wouldn't let you do that.

18 **A. Right.**

19 Q. Okay. If you want to do it on
20 a break --

21 **A. Okay.**

22 Q. -- I can't stop you guys from
23 talking.

24 **A. Understood.**

25 Q. But --

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1 **A. Okay.**

2 Q. -- if you need a
3 clarification, you're welcome to ask me
4 too.

5 **A. Okay.**

6 Q. And I'll do my best. If
7 there's something about a question I'm
8 not -- you don't understand, I'm happy to
9 try to help you sort that out.

10 **A. No, it's fine.**

11 Q. Okay.

12 MR. RODGERS: And you can talk
13 to me whenever you need to, but not
14 really about the testimony.

15 **THE WITNESS: Okay.**

16 MR. RODGERS: But if you need
17 to clarify something, tell
18 Mr. Chapman.

19 **THE WITNESS: Well, the only**
20 **thing that I wanted to clarify was**
21 **that in regards to the logs, these**
22 **are -- they're able to go back in and**
23 **edit these after the fact.**

24 Q. Oh, is that right?

25 **A. Correct.**

LEONARD BALDASSARE

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1 Q. Okay. So is there an audit
2 trail that would tell you when something is
3 changed?

4 A. No.

5 Q. Or what was changed?

6 A. No.

7 Q. So even though the daily log
8 has been completed, it's not really final?

9 A. It's not final until they close
10 it out for the day. So they can leave it
11 open for a few hours, and then go back and
12 change or edit if they make a mistake on
13 something. It's mostly -- it's there so
14 that if they say, "Oh, we picked up the
15 weeks 282, but it was really the weeks
16 281," they can go back and make the
17 correction.

18 Q. Like they could do that a week
19 later?

20 A. No. Once they submit it for
21 the day, then that's it.

22 Q. So it's -- at the end of the
23 day, it's closed?

24 A. Correct.

25 Q. And I'll call it, sort of,

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1 inalterable --

2 **A. Yes.**

3 Q. -- at that point?

4 **A. Yes. Until they submit it and**
5 **close it out for the day, it's**
6 **still -- they can still edit it.**

7 Q. So looking at Exhibit 6 again
8 for June 15th on Page 56 of this exhibit,
9 are you able to tell when they closed that
10 out?

11 **A. No.**

12 Q. Is there another record,
13 another document that would show you when
14 the master's daily report was closed out?

15 **A. No.**

16 Q. Let me pass over to you Exhibit
17 36. That was produced to us in this case,
18 and appears to be -- well, is it -- is some
19 kind of form titled "7.3 master's daily
20 vessel reporting?"

21 **A. Yes.**

22 Q. For the Mackenzie Rose, right?

23 **A. Yes, sir.**

24 Q. Right? So this is also a form
25 in the Helm system?

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1 A. Yes.

2 Q. And is this the report that
3 then is some how connected to the report
4 that you have there in Exhibit 6? Are they
5 related to each other?

6 A. No, this is a separate form.

7 Q. Okay.

8 A. This is the master's daily form
9 that they fill out every day.

10 Q. All right. And if you look at
11 the page for June 15th, check -- is -- they
12 have numbers at the bottom, Carver 000019?

13 A. Got it.

14 Q. Right. This report says it was
15 filled out by Captain Chris Miller on June
16 15th, 2024 at 23:55 hours?

17 A. Yes.

18 Q. So he's the master of the
19 vessel, that would've been just before he
20 went off watch?

21 A. Yes.

22 Q. Right?

23 A. Yes.

24 Q. Okay. So he fills out this
25 report and submits it, and once it's

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1 submitted on -- at this time 23:55 hours,
2 is it like done for the day?

3 A. Yes.

4 Q. You can't go back in and change
5 it?

6 A. No.

7 Q. All right. And then the report
8 that's in Exhibit 6 is more like a logbook,
9 right?

10 A. Yes.

11 Q. And likewise, once it's
12 submitted, whenever that happens, before
13 the end of the day, it's done. You can't
14 amend it?

15 A. Yes, sir.

16 Q. Right. Okay. So there's also
17 a rough deck log kept on the boat, right?

18 A. Yes.

19 Q. It's a journal, covers the
20 whole year, right?

21 A. Yes.

22 Q. Carver puts those on the boat
23 or provides them for the boat?

24 A. No.

25 Q. You don't think so?

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1 A. No.

2 Q. Why?

3 A. I've never been instructed to
4 provide one or put one on the boat for any
5 reason at all. That's what the Helm system
6 is for.

7 Q. So in your experience, you've
8 never filled out a rough log?

9 A. Not working at Carver
10 companies, no.

11 Q. At Buchanan?

12 A. Yes.

13 Q. Vane?

14 A. No.

15 Q. Center Line? Actually, you
16 didn't have a sailing role at Center Line.

17 A. I wasn't sailing there,
18 correct.

19 Q. But there's a rough log on the
20 Mackenzie Rose, right?

21 A. Yes.

22 Q. So let me pass you Exhibit 23.

23 MR. RODGERS: Are you okay?

24 THE WITNESS: Yeah, yeah, I'm
25 fine.

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1 Q. So as part of your
2 investigation into this allision, did you
3 ever review the rough log that was on the
4 boat?

5 A. No.

6 Q. Did you ever request a copy of
7 the rough log?

8 A. No.

9 Q. Did you even know there was a
10 rough log?

11 A. No.

12 Q. If you would look at -- this is
13 in Exhibit 23, the page covering Saturday,
14 June 15th of 2024?

15 A. Yes, got it.

16 Q. Okay. It says, "At 16:30, a
17 co-captain reports steering went hard over
18 and he was backing in, we tapped the
19 northend P-B-L-R-R Bridge." Did I read
20 that correctly?

21 A. Yes.

22 Q. Okay. Do you recognize that
23 handwriting?

24 A. No.

25 Q. So you don't know whether it's

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1 Captain Morrissey or Captain Miller?

2 A. I do not know.

3 Q. All right. Did anybody ever
4 say to you during the course of any
5 interview that they had actually tapped the
6 bridge?

7 A. No.

8 Q. Only the fender?

9 A. Yes, sir.

10 Q. Did you have any responsibility
11 as Port Captain for making sure that
12 repairs were effected to any of the tugs
13 that you oversaw?

14 A. Not usually. In certain
15 instances I would assist the engineering
16 team, but it would be handled by
17 engineering.

18 Q. Were you aware of any
19 complaints involving either the steering
20 system or the autopilot system on the
21 Mackenzie Rose while you were Port Captain
22 at any time before the allision with the
23 bridge?

24 A. No. Nothing was told to me
25 from the vessel that there was any issues.

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1 Q. Okay. So if there were
2 some -- I'll call it problem or concern
3 with navigation, the autopilot system, that
4 sort of thing, how would the crew get that
5 addressed or resolved, or at least
6 inspected?

7 A. They would reach out to the
8 port engineer who would then set up either
9 a technician, go out to the vessel to make
10 a repair or talk to the engineer and see if
11 it's something that the engineer feels
12 comfortable repairing himself, depending on
13 the extent of the issue.

14 Q. Okay. Do you know what a "near
15 miss report" is?

16 A. Yes.

17 Q. Is that a form that you fill
18 out in the Helm system?

19 A. Me personally, or the vessels?

20 Q. Well, in Carver Marine Towing
21 generally, is that a form that can be
22 filled out in the Helm system?

23 A. Yes. But not by shore side
24 personnel. Just by the vessels.

25 Q. So it's not a form that you

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1 would even have access to?

2 **A. No.**

3 Q. If there's one that's submitted
4 by a vessel, are you able to see it?

5 **A. No. Usually, it goes directly**
6 **to Brian because he was the one that would**
7 **have to approve the near misses.**

8 Q. So there's an approval process
9 when there's a near miss?

10 **A. Correct.**

11 Q. And what is -- what's involved
12 in that?

13 **A. I do not know. I was not an**
14 **approver.**

15 Q. So you wouldn't even be
16 informed of a near miss?

17 **A. Unless there was a incident,**
18 **normally not.**

19 Q. So as originally reported to
20 you, where apparently everybody that you
21 interviewed said, "All we did was brush up
22 against the fender system on the
23 bridge -- "

24 MR. RODGERS: Objection to
25 form. I'm not sure that's his

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1 testimony. You said "everyone."

2 Q. You can correct me if I
3 misstated, okay?

4 **A. Okay.**

5 Q. But based on that, would you
6 have considered that to be a near miss,
7 requiring a near miss report in your Helm
8 system?

9 MR. RODGERS: Objection to
10 form. If you understand it, you can
11 answer.

12 **A. I'm not really sure what you're**
13 **asking. Are you asking if the incident**
14 **that was reported to me on Saturday the**
15 **15th, would be considered a near miss?**

16 Q. Sure.

17 **A. In my personnel opinion?**

18 Q. Yes.

19 **A. I'm not an expert in near**
20 **misses, but --**

21 MR. RODGERS: Well, don't --

22 **A. No, I'm not really --**

23 MR. RODGERS: Stop, stop.

24 Don't -- you're not here to give your
25 opinion, okay.

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1 THE WITNESS: Okay.

2 A. Then no.

3 Q. It wouldn't be reported as a
4 near miss or you just don't have an
5 opinion?

6 A. I don't have an opinion on it.

7 Q. Okay. It was -- in your -- why
8 did the boat -- why did Captain Miller
9 contact you on the afternoon of June 15th,
10 2024?

11

12

13 MR. RODGERS: Objection to
14 form. You can answer if you
15 understand it.

16 A. You would have to ask Captain
17 Miller why he felt it necessary to call me.

18 Q. So you were the Port Captain,
19 and he reported that they had touched the
20 fender system, right?

21 A. Yes.

22 Q. Who else would he report it to,
23 if not you?

24 A. Brian Moore.

25 Q. Is there some clear kind of

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1 reporting chain that he should call Moore
2 first and then you, or call you and if he
3 doesn't reach you, then call Moore?

4 **A. It would be me first.**

5 Q. All right. So do you know
6 whether he spoke at all to Brian Moore that
7 day?

8 **A. I do not know.**

9 Q. I want to ask you about a
10 couple of sets of invoices or billing
11 records that were provided to us by Carver
12 that came from GMT McCay and Ayers Marine
13 Electronics, which are labeled Exhibit 24
14 and 25.

15 **A. Okay. You got an extra one**
16 **there?**

17 Q. All right, thank you. So 24 is
18 from Ayers Marine Electric?

19 **A. Yep.**

20 Q. And 25 is from GMT McCay,
21 right?

22 **A. Yes.**

23 Q. Would those, I'll say, come
24 across to -- your desk or come to your
25 attention?

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1 **A. I can't speak to this one**
2 **because I wasn't even employed at the time.**

3 Q. That's the GMT McCay?

4 **A. Yes, sir.**

5 Q. And you're talking about
6 something from 2023?

7 **A. Correct.**

8 Q. Okay.

9 **A. So I wasn't employed, so I**
10 **can't speak to anything on that.**

11 Q. And one second before we go on,
12 but Exhibit 25, the GMT McCay, is three
13 pages. So the second page is from March of
14 2024?

15 **A. Yes.**

16 Q. All right. And so, that's my
17 question is, would that have come to your
18 attention in --

19 MR. RODGERS: The invoice.

20 Q. Yeah. The record from McCay?

21 **A. No. This would go to our**
22 **accounts payable department.**

23 Q. Okay. So -- but in the
24 ordinary course, you wouldn't be involved
25 in that at all?

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1 **A. No.**

2 Q. Right. Do you have any memory
3 of seeing that or knowing it was some work
4 being done on the Mackenzie Rose in that
5 timeframe?

6 **A. No, not this one.**

7 Q. Okay. So let's look at the
8 Ayers Marine Electric, that is Exhibit 24.

9 **A. Yep.**

10 Q. Would that have come to your
11 attention in some way or across your desk,
12 so to speak, in connection with your role
13 as Port Captain in 2024?

14 **A. No. Once again, this would go**
15 **to accounts payable. However, I was the**
16 **one that was instructed to set up the**
17 **technicians to come down and work on the**
18 **autopilot for the boat.**

19 Q. Okay. So you didn't have that
20 role with the GMT McCay work in March of
21 2024?

22 **A. No.**

23 Q. But you did with Ayers?

24 **A. Yes, sir.**

25 Q. In -- and that was in April of

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1 2024?

2 A. Yes, sir.

3 Q. And they came out twice?

4 A. Yes.

5 Q. Right. And to your knowledge,
6 what work was required on the autopilot
7 system?

8 A. I'm not sure exactly what was
9 required. I know what they did was replace
10 the actual unit itself. They ran some new
11 wires and they have fixed everything into
12 the GPS system on the boat.

13 Q. In April of 2024?

14 A. Yes.

15 Q. Do you know what 11 problems
16 they were experiencing with the autopilot
17 system?

18 A. I do not know exactly. I was
19 just instructed from the engineering team
20 to please assist in setting up a technician
21 to come out there.

22 Q. So when did you start with
23 Carver in 2024? And I know you told us
24 January, but what was your start date?

25 A. It was sometime in mid January.

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1 I don't know the exact date.

2 Q. Okay. Shortly after you
3 arrived, if it was mid January, did you
4 become aware that Captain Morrissey, while
5 piloting the Mackenzie Rose down in
6 Charleston Harbor, hit a pier?

7 A. No.

8 Q. You didn't know that?

9 A. No.

10 Q. Would that type of thing be
11 reported to you as a Port Captain or not?

12 A. It would be normally, yes.

13 Q. Okay. Let me pass to you
14 Exhibit 3.

15 (Whereupon, Exhibit 3 was
16 marked for identification.)

17 A. Okay.

18 Q. This was produced to us by
19 Carver, and at the top it says it's 9.5
20 incident report event pertaining to the
21 Mackenzie Rose. It looks like somebody
22 filled it out on January 22nd of 2024. Do
23 you see that?

24 A. Yeah. I feel like -- do you
25 know what day of the week this was?

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1 **Because I feel like this happened or this**
2 **was right before I started.**

3 Q. Okay.

4 **A. This date.**

5 Q. Do you know who Brandon Kuster
6 is?

7 **A. I do.**

8 Q. Who is he or what role did he
9 have at --

10 **A. He was a mate at Carver**
11 **Companies, he still works there --**

12 Q. He's still --

13 **A. -- to my knowledge.**

14 Q. He's still employed at Carver?

15 **A. Yes.**

16 Q. Okay. At least he was when you
17 left?

18 **A. Correct.**

19 Q. This Helm -- this report from
20 Helm is some type of form that has to be
21 filled out when there's an incident --

22 **A. Yes.**

23 Q. -- right? Whether it was for
24 the Mackenzie Rose or not, were there any
25 other 9.5 incident reports that were filled

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1 out for any of the vessels while you were
2 employed by Carver?

3 **A. Not to my knowledge.**

4 Q. And you don't think you've ever
5 seen this one?

6 **A. This one I've never seen, no.**

7 Q. Okay. Was a 9.5 incident
8 report like Exhibit 3, like the one marked
9 as Exhibit 3, ever started for the allision
10 with the Belt Line Bridge?

11 **A. I do not know.**

12 Q. Did you ever open such a form
13 and input any data --

14 **A. No.**

15 Q. -- to support that? Do you
16 know if any of the -- either the master or
17 the mate did?

18 **A. You would have to ask them, I**
19 **don't know.**

20 Q. Can this report be filled out
21 by anybody other than the master or the
22 mate?

23 **A. I do not know if -- I don't**
24 **know. I'm not sure.**

25 Q. Okay.

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1 **A. Yeah. I'm not sure if -- I**
2 **would say probably not, but I don't know**
3 **for sure.**

4 Q. After you started working for
5 Carver, did you ever hear or come to learn
6 that Captain Morrissey, while piloting the
7 Mackenzie Rose, had hit a pier in
8 Charleston, South Carolina?

9 **A. No.**

10 Q. While you were employed by
11 Carver, was Captain Morrissey ever
12 disciplined or reprimanded or anything to
13 your knowledge?

14 **A. Not to my knowledge, and not by**
15 **me.**

16 Q. Have you had to discipline or
17 reprimand anybody during your employment by
18 Carver?

19 MR. RODGERS: You can --

20 **A. Yes.**

21 Q. Okay.

22 **A. I have, yeah.**

23 Q. Crew members?

24 **A. Correct.**

25 Q. All right. Anybody who was in

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1 the role of master of a tug?

2 A. No. No.

3 Q. Mate?

4 A. Yes.

5 Q. And more than once?

6 A. Yeah. Not the same individual,
7 but on a few separate occasions, a few
8 mates needed to, you know, shape up.

9 Q. And what are the types of
10 things that you would've to counsel them
11 about?

12 A. Just being more prudent with
13 filling out logs, doing inspections.
14 Their -- just overall, you know, the way
15 they conduct themselves on the boat.

16 Q. Anything operational?

17 A. No. No.

18 Q. What about deck hands?

19 A. Yes.

20 Q. Counseling involved by you or
21 delivered by you?

22 A. Yes.

23 Q. All right. And again, same
24 question, what's the nature of that
25 counseling?

1 A. Don't be lazy, listen to the
2 captain, do your duties that you're
3 assigned for your watch. Yeah, that's
4 pretty much it.

5 Q. Is there a record kept of that
6 counseling?

7 A. No. No. It's more just me
8 coming saying, "Hey, listen. I spoke to
9 Captain whoever, he's not really thrilled
10 with the way things have been working out.
11 This is me telling you, you know, you need
12 to be better, try harder."

13 Things of that nature.

14 Q. But it's not like there's
15 something that gets documented in their
16 personnel file?

17 A. No. Unless it was a -- like a
18 major thing, then if they were like written
19 up or something like that, then it would be
20 documented.

21 Q. When you say, "written up," is
22 there a form in Helm for doing that?

23 A. No, HR has the write-up forms.

24 Q. Can you access the HR system
25 for those?

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1 **A. No. I would have to reach out**
2 **to HR directly and let them know we're**
3 **going to be writing this person up for X, Y**
4 **and Z, and then they would send the form**
5 **over.**

6 Q. To your knowledge, was Captain
7 Morrissey ever written up --

8 **A. Not to my knowledge.**

9 Q. -- in process?

10 **A. Not to my knowledge and not by**
11 **me.**

12 Q. Were there occasions while you
13 were employed by Carver as Port Captain
14 that you did reach out to HR and initiated
15 that you -- write-up process on anybody you
16 were counseling?

17 **A. Yes, one time.**

18 Q. One time. And what position
19 did that person hold?

20 **A. Deck hand.**

21 Q. On the Mackenzie Rose?

22 **A. No.**

23 Q. Did you ever do a check ride
24 with Captain Morrissey?

25 **A. No.**

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1 Q. Captain Miller?

2 A. I don't believe so, no.

3 Q. We can put those over here.

4 A. Oh, sure. There you go.

5 Q. Mr. Baldassare, I'm going to
6 pass to you what has been marked as
7 Exhibits 26, 28, and 30. Those documents
8 were produced to us in this case, and they
9 appear to be separate near miss reports --

10 A. Okay.

11 Q. -- involving the Mackenzie
12 Rose.

13 MR. RODGERS: Separate reports
14 or separate incidents.

15 MR. CHAPMAN: Well, Okay.
16 Separate reports of separate
17 incidents, how about that?

18 Q. It's only Exhibit 28 that has
19 the Helm sort of logo on it with some other
20 data about when it was filled out, who it
21 was filled out by.

22 A. Right.

23 Q. You see that?

24 A. Yes.

25 Q. But exhibits 26 and 30 contain

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1 the form response items for separate
2 incidents. Do you see that?

3 A. Mm-hmm.

4 Q. Okay.

5 A. Yes.

6 Q. These all were received at some
7 point by Mr. Moore?

8 A. Yes.

9 Q. Do you see that in Block 2.2?

10 A. Yes.

11 Q. On separate dates. Looks like
12 Exhibit 26 was in May of 2024, Exhibit 28
13 was in March of 2024 and Exhibit 30 was in
14 April of 2024, right?

15 A. Yes.

16 Q. Were you ever aware of any of
17 these near misses --

18 A. No.

19 Q. -- that were reported?

20 A. No, I was not. As I stated
21 earlier, these -- when these were
22 submitted, they went directly to Brian as
23 he was the approver of the near misses.

24 Q. In 2024, March, April and May,
25 do you know whether Mr. Moore had a valid

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1 Merchant Mariners Document?

2 A. Did he have one?

3 Q. Yeah.

4 MR. RODGERS: I didn't hear it.

5 Q. I'm asking if you know whether
6 in March, April and May of 2024, Mr. Moore
7 had a valid Merchant Mariners document?

8 MR. RODGERS: I didn't hear,
9 Merchant Marine, what.

10 MR. CHAPMAN: Merchant Mariners
11 document. Did he have a valid --

12 MR. RODGERS: A license.

13 MR. CHAPMAN: Yep, mm-hmm.

14 A. I don't know. I would -- I
15 don't know, I --

16 MR. RODGERS: Don't assume
17 anything.

18 A. Yeah, no. I don't know.

19 Q. Okay. Had you ever sailed with
20 Mr. Moore?

21 A. No.

22 Q. So when you worked together in
23 the past, they weren't in the sailing
24 roles?

25 A. Separate vessels. He was a

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1 captain, I was sailing as a mate on a
2 different vessel.

3 Q. Okay. Did he ever inform you
4 of these near miss reports?

5 A. No, he did not.

6 Q. Okay. I'm going to pass you
7 Exhibit 32.

8 A. Sure.

9 MR. RODGERS: Thank you.

10 Q. This was produced to us by
11 Carver and it consists of several pages
12 beginning with Carver 00851 through 00885.

13 And it appears to relate
14 exclusively to James D. Morrissey. Do you
15 know what this report is of?

16 A. I have no idea. I have never
17 seen this before.

18 Q. Okay. Do you see on -- just
19 looking at the first couple of pages, it
20 looks like it's tracking either training or
21 participation in drills, that sort of
22 thing?

23 A. Yeah. Participating in
24 drill -- yeah, weekly task, participating
25 in drill.

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1 Q. Okay.

2 A. Yeah.

3 Q. Are there -- I don't know what
4 to call them, modules, like a video you
5 would watch or a training document that you
6 would review or quiz, you know, written
7 quiz that you would fill out that were
8 associated with any of these?

9 A. Not to my knowledge. No, not
10 to my knowledge.

11 Q. Okay. I am thinking that now's
12 a good time to get lunch and then --

13 MR. RODGERS: Oh, you're not
14 done.

15 I'm kidding.

16 MR. CHAPMAN: Come back in 45
17 minutes.

18 MR. RODGERS: Yeah, 45 works.

19 MR. CHAPMAN: Okay.

20 MR. RODGERS: Is that okay with
21 your team.

22 MR. CHAPMAN: Yes.

23 THE VIDEOGRAPHER: We are going
24 off the record. The time is 1:06
25 p.m.

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1 Off the record.

2 (Whereupon, a short recess was
3 taken.)

4 THE VIDEOGRAPHER: Beginning
5 Media Number 3. We are back on the
6 record. The time is 1:59 p.m.

7 Q. Mr. Baldassare, I'm going to
8 pass over to you Exhibit 34. You can give
9 me 32, 33.

10 A. 32, yeah.

11 Q. Great. Thanks. That's a
12 document that was provided by Carver. It
13 appears to be a report of the voyage plan
14 out of the Helm system?

15 A. Yep, yes.

16 Q. At the top it says, "7.9 voyage
17 plan-outside New York Harbor for the
18 Mackenzie Rose."

19 A. Right.

20 Q. On June 15th, 2024?

21 A. Yep.

22 Q. The time is, I guess that's
23 midnight, right?

24 A. Yes.

25 Q. It says it was filled out by

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1 you?

2 **A.** **It does say that, yes.**

3 Q. Okay. Was it filled out by
4 you?

5 **A.** **It was not. So sometimes what**
6 **happens when the -- whoever is filling out**
7 **the log or the voyage plan, there's a drop**
8 **down for who it's filled out by and it's**
9 **alphabetical. And a lot of times since my**
10 **name is BA, it's usually at the top.**

11 **So instead of dropping down and**
12 **correct -- picking whoever is filling it**
13 **out, sometimes they would just leave my**
14 **name without even realizing it. That's why**
15 **it says deleted.**

16 Q. Have you ever filled out a
17 voyage plan --

18 **A.** **No.**

19 Q. -- in section 7.9?

20 **A.** **No.**

21 Q. Never?

22 **A.** **Never.**

23 Q. Okay. Is there any way to know
24 who filled this out then?

25 **A.** **I don't think so. No, I don't**

1 think so.

2 Q. So in Section 2 it describes
3 the crew members?

4 A. Yes.

5 Q. Master, mate, engineer and two
6 deck hands, right?

7 A. Yes.

8 Q. And it's got their names?

9 A. Yes.

10 Q. So after the Master Christopher
11 Miller, says deleted.

12 A. Yep.

13 Q. What does deleted mean?

14 A. I do not know.

15 Q. And I get -- the same questions
16 around the mate and the engineer, where it
17 says, "The mate is James Morrissey and the
18 engineer, Jason McGrath." It says,
19 "Inactive" after theirs?

20 A. Right. I see that. I don't
21 know what -- why it would say that.

22 Q. Okay. Do you know why it says,
23 "Deleted" for you?

24 A. Like I said earlier, if they
25 put the wrong name they have to go back and

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1 put the correct name.

2 Q. And we just don't have that
3 version of whatever the correct name would
4 be?

5 A. Correct.

6 Q. All right. Once this plan is
7 filed can it be amended -- modified?

8 A. I don't believe so.

9 Q. So they couldn't change who it
10 was filled out by?

11 A. No. They would have to delete
12 it and create a new one.

13 Q. When you create a voyage plan
14 it says, you know, date filed and then the
15 time, are those drop downs as well --

16 A. Yeah.

17 Q. -- or is that autopopulated?

18 A. No. This all drop downs except
19 for the external number and the tags,
20 everything else is a drop down.

21 Q. Even the time -- the date and
22 time?

23 A. Yes.

24 Q. Okay. Did you ever see this in
25 connection with your investigation of the

1 allision with the bridge?

2 **A. No, I did not.**

3 Q. It lives in the Helm system
4 though, so if you had looked for it, you
5 could have accessed it?

6 **A. Correct.**

7 Q. In Section 1.2, under voyage
8 planning, it references a Rose Point voyage
9 plan to be attached to the form. Have you
10 ever seen a Rose Point voyage plan attached
11 to one of these forms?

12 **A. Yes.**

13 Q. And how do you create that?

14 **A. It would be on the Rose Point**
15 **system on the boat. They would go in,**
16 **create a voyage plan and then they can**
17 **print it out.**

18 Q. So when you create a Rose Point
19 voyage plan, you put in where you start and
20 where you're going?

21 **A. Correct. With all your way**
22 **points along the way, security check-ins,**
23 **traffic check-ins, things of that nature.**

24 Q. So you actually have to what,
25 like drop pins or something, for those in

1 the plan?

2 **A. Yeah, essentially, yes.**

3 Q. And when you then create the
4 plan, so that you can attach it, is it like
5 one click in the Rose Point application to
6 do that?

7 **A. I don't understand your**
8 **question.**

9 Q. Well, I'm just trying to
10 understand. It goes on to describe, it
11 says, "Save the voyage plan to your
12 computer, then click on the paper clip,
13 either at the top of the form or the one on
14 the right side."

15 Is that to create the voyage
16 plan, or is that to attach it to this Helm
17 system?

18 **A. That's to attach the voyage**
19 **plan to the Helm voyage plan -- the Rose**
20 **Point voyage plan to the Helm voyage plan.**

21 Q. And is the Rose Point voyage
22 plan like a PDF or what type of file is it?

23 **A. I'm not sure what kind of form**
24 **it comes in, I believe it is a PDF, but I'm**
25 **not 100 percent sure.**

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1 Q. Did you ever secure the Rose
2 Point voyage plan from anyone in the crew
3 of the McKenzie Rose for the voyage they
4 were on when they elided with the bridge?

5 A. No, I did not.

6 Q. Did you ask them to provide it?

7 A. No, I did not.

8 Q. Why not?

9

10

11 MR. RODGERS: Objection to
12 form. You can answer if you have an
13 answer.

14 A. I don't really have an answer.
15 I just didn't request it.

16 Q. I assume that the voyage plan
17 did not include eliding with the bridge?

18 A. No.

19 Q. Would the voyage plan indicate
20 the ranges where the vessel was going to be
21 on autopilot?

22 A. No. No.

23 Q. Does the Rose Point system
24 track when the vessel is or is not on
25 autopilot?

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1 A. That, I do not know.

2 Q. Under Section 5.

3 A. Yep.

4 Q. There is a number of risk
5 assessment questions. And then in Section
6 6 there is a reference to 9.4 GAR model
7 risk assessment. Do you see that?

8 A. Yes.

9 Q. It looks like GAR stands for,
10 Green Amber Red?

11 A. Yes.

12 Q. Correct?

13 A. Correct.

14 Q. Are you familiar with that risk
15 assessment system?

16 A. No.

17 Q. Is there something that
18 the -- whoever filled out this form has
19 access to, to kind of walk them through the
20 assignment of risk scores in Section 6?

21 MR. RODGERS: Objection.

22 Foundation.

23 MR. CHAPMAN: Well, he can only
24 answer if he knows, Mr. Rodgers.

25 MR. RODGERS: He said he

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1 doesn't fill out these things.

2 MR. CHAPMAN: That doesn't make
3 any difference. It's a question of
4 whether he knows --

5 MR. RODGERS: But now you're
6 asking him --

7 MR. CHAPMAN: -- if there's some
8 reference.

9 MR. RODGERS: But now you're
10 asking him what somebody who fills it
11 out whether they -- how -- excuse me,
12 how they fill it out.

13 But you can answer if you know,
14 Lenny.

15 **A. I don't know. I don't know. I**
16 **don't fill these out regularly, so.**

17 Q. Are you familiar at all with
18 the GAR model risk assessment --

19 **A. No.**

20 Q. -- process?

21 **A. No.**

22 Q. Do you know what the reference
23 to 9.4 is, in Section 6?

24 **A. It's right here, GAR model risk**
25 **assessment.**

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1 Q. Yeah. Do you know what that
2 reference is, it's 9.4 to some other
3 document or system?

4 A. Oh, I don't know.

5 MR. CHAPMAN: That was mine.

6 That was mine. That was mine.

7 MR. RODGERS: Sorry.

8 MR. CHAPMAN: It's all right.

9 MR. RODGERS: Jesus, I'm losing
10 it. I thought I heard a little
11 voice.

12 Q. Mr. Baldassare, let me pass you
13 now, Exhibit 4, which we learned yesterday
14 from Mr. Moore our selected sections from
15 the safety management system?

16 (Whereupon, Exhibit 4 was
17 marked for identification.)

18 A. Mm-hmm.

19 MR. RODGERS: Objection to
20 form.

21 Q. If -- let's just start with
22 page -- they're numbered at the bottom,
23 Carver 0000148?

24 A. This first page here?

25 Q. Yeah.

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1 **A. Yep.**

2 Q. It says at the top, "5.1
3 Master's responsibility and authority?"

4 **A. Mm-hmm.**

5 Q. Do you know what the safety
6 management system is that Carver has for
7 marine operations?

8 **A. Yes.**

9 Q. And is it available in
10 electronic version?

11 **A. Yes, it's in Helm.**

12 Q. It's actually in the Helm
13 system?

14 **A. Yes. They can access it via**
15 **Helm.**

16 Q. Do you know -- is it like a PDF
17 document in Helm or is it a -- an
18 electronic document that just has a bunch
19 of sections in it?

20 **A. It's -- you could access it**
21 **both ways. You can access it**
22 **electronically in the helm system and then**
23 **you can also download the entire thing as a**
24 **PDF.**

25 Q. Okay. Is there a hard copy

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1 that's printed out somewhere at Carver
2 Marine?

3 A. Not to my knowledge.

4 Q. You never had a hard copy?

5 A. No, just the electronic.

6 Q. Okay. So you don't know how
7 thick the hard copy would be if it was
8 printed out?

9 A. No. I admit -- I would assume
10 it's killing a lot of trees.

11 Q. Okay. You had access to the
12 safety management system though while you
13 were Port Captain, right?

14 A. Yes, sir.

15 Q. And did you ever use it to look
16 things up or check on things?

17 A. Yes.

18 Q. Does it have like an index or
19 is it -- do you know?

20 A. You could search it. You could
21 do like Control S and a little tab would
22 come up and you can search for just like
23 keywords. So if you're looking for health
24 and safety, you could just type in, "Health
25 and safety" and it would bring you to all

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1 the sections that include health and
2 safety.

3 Q. And then you could just kind of
4 scroll through the document looking at
5 them?

6 A. Yes.

7 Q. Do you know whether it has like
8 a table of contents?

9 A. I believe it does, but I'm not
10 100 percent sure. But I'm -- I believe it
11 does, yes.

12 Q. Did -- was there a safety
13 management system in place at Center Line?

14 A. Yes.

15 Q. That you had access to?

16 A. Yes.

17 Q. And at Vain Brothers?

18 A. Yes.

19 Q. That you had access to?

20 A. Yes.

21 Q. What about -- it was at
22 Buchanan that you worked at?

23 A. Yes.

24 Q. Did they have one too?

25 A. They did, yes.

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1 Q. Was it electronic?

2 A. Yes.

3 Q. So it suffices to say that
4 you've used the safety management system at
5 not just Carver, but previous employers?

6 A. Yes. They're all -- they all
7 vary based on the company, but yes.

8 Q. Does your new company have a
9 safety management system?

10 A. It does, yes.

11 Q. So this starts at 5.1 and these
12 are the only sections that were produced to
13 us, okay?

14 A. Okay.

15 Q. But in terms of the overall
16 numbering scheme, if you see on Page 1 or
17 the first page of the exhibit where the
18 exhibit sticker is, would there be sections
19 that come before 5.1?

20 A. I'm not sure. I would have to
21 pull the whole thing up, but I don't know.

22 Q. And would there be sections
23 that come after 9.5?

24 A. Again, I don't know. I don't
25 have it memorized.

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1 Q. The only way to really know is
2 to look at the document, right?

3 **A. Yes.**

4 Q. Okay. Do you know what the
5 source of the safety management system is
6 that Carver used, like who they bought it
7 from or rented it from?

8 **A. I do not know.**

9 Q. If you turn to the very end of
10 this exhibit, the last four pages, the
11 first of which begins with the number
12 Carver 000886?

13 **A. Yeah. With the TBS logo at the**
14 **top?**

15 Q. Yeah.

16 **A. Yep.**

17 Q. Are you familiar with the
18 company that's referred to as TBS?

19 **A. Yes.**

20 Q. What do you know about them?

21 **A. They're a third-party auditor**
22 **that -- they manage the Helm system and**
23 **they manage like the documentation for all**
24 **the boats, and kind of just make sure that**
25 **you're staying in compliance with**

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1 everything. But they are their own
2 separate entity.

3 Q. Do you know where they're
4 headquartered?

5 A. I believe in Louisiana.

6 Q. Okay. There's an address on
7 here that says, "Daphne, Alabama." Could
8 that be it?

9 A. Could be, but I don't know.
10 I've never been to the headquarters.

11 Q. Okay.

12 A. We've only dealt with the TBS
13 employees that are in New York.

14 Q. And who are they?

15 A. Collin Bryant.

16 Q. Collin Bryant --

17 A. Yes.

18 Q. -- with a T?

19 A. Yes.

20 Q. All right.

21 A. And that's it. Just him.

22 Sorry.

23 Q. Just him?

24 A. Yes.

25 Q. Is he in Staten Island, New

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1 York City?

2 A. I think he's all over the
3 place. I don't know what his day to day
4 is, but I know he covers New York.

5 Q. And is he the sales guy or is
6 he the troubleshooting guy with the -- this
7 product?

8 A. No. He's -- he comes out and
9 like does the audits and make sure that
10 everything is staying in compliance.

11 Q. All right. At your new
12 employer, HNL --

13 A. Yes.

14 Q. -- do you also use TBS?

15 A. No.

16 Q. Is there another third party
17 provider or do you guys have your own --

18 A. It's all internal.

19 Q. One you guys -- that the
20 company developed itself?

21 A. Yes. Excuse me.

22 Q. Is there anything that you know
23 of within the safety management system
24 that's some how very unique to Carver as
25 opposed to kind of a generic safety

1 management system?

2 **A. No, not to my knowledge.**

3 Q. Have you ever requested changes
4 to the safety management system while you
5 were employed by Carver?

6 **A. No.**

7 Q. Do you know if there's a
8 process for doing that?

9 **A. I believe there is, yes.**

10 Q. Do you know of any changes that
11 were made to the safety management system
12 while you were employed by Carver?

13 **A. Not to my knowledge.**

14 Q. If you can turn to -- all these
15 pages are numbered at the bottom.

16 **A. Yes.**

17 Q. I confess they're not
18 necessarily consecutive page numbering, but
19 it looks like it's the third page into this
20 exhibit. At the top it starts with the
21 word, "The 6.12 deckhand." Page 150.

22 **A. Yes, I got it.**

23 Q. Okay. Under the operational
24 section towards the bottom of the page --

25 **A. Mm-hmm.**

1 Q. -- the fourth bullet says that
2 "One of the deckhands responsibility is to
3 assist the master/mate in making bridges."
4 How does the deckhand assist the master or
5 mate in making bridges?

6

7

8 MR. RODGERS: Objection to
9 form. You can answer if you know.

10 A. It would just be them going out
11 to be on the look out if required or
12 needed. But it would be at the master of
13 mates discretion if they thought one was
14 needed.

15 Q. So then the next bullet down
16 says, "Standing lookout or riding ahead of
17 the tow as a lookout."

18 A. Yeah.

19 Q. Right?

20 A. Essentially the same thing.

21 Q. Do the deckhands get any
22 training on how to perform those duties?

23 A. No, not to my knowledge.

24 Q. Do the masters or mates get any
25 training on the process of assigning

1 lookouts or the circumstances under which a
2 lookout should be assigned?

3 **A. No. Like I said, it would be**
4 **at their own discretion if there was fog or**
5 **rain or lack of visibility.**

6 Q. And so if you can turn to the
7 Section 7.12 on bridge transits.

8 **A. Okay.**

9 Q. And it's towards the end.

10 **A. Shifts 7.12?**

11 Q. Yes, 7.12 for bridge transits.

12 MR. RODGERS: Which page is
13 that.

14 Q. It's got a big yellow bar
15 across the middle of it. The page number
16 is 910.

17

18

19 MR. RODGERS: 910. Okay. Is
20 that near the end or somewhere else.

21 MR. CHAPMAN: It's closer to
22 the end than the beginning.

23 MR. RODGERS: Thank you.

24 **A. Okay, I'm here.**

25 Q. So bridge transits have their

1 own section in the safety management
2 system, right?

3 **A. Yes.**

4 Q. And is that because they create
5 hazardous navigation situations or at least
6 potentially do?

7 **A. Yes.**

8 Q. So right in the middle of that
9 page there is this kind of yellow or
10 orange-ish call out in larger font that
11 says, "Under no circumstances shall the
12 wheelman responsible for the transit make
13 the bridge due to pressure or pride." Do
14 you know what that is warning the master or
15 the mate of? Like what does that statement
16 mean to them?

17 **A. It means that if you're not**
18 **comfortable transiting through a bridge for**
19 **any circumstance, then do not do so.**

20 Q. Is there a reason that it's
21 like popped out important or highlighted in
22 this fashion?

23 **A. I'm not sure.**

24 Q. If you look at above
25 that -- the section titled "Before The

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1 Transit?"

2 A. Yes.

3 Q. The second to last bullet says,
4 "Necessity of assigning a crew member with
5 a radio to the head of the tow." Right?

6 A. Yes.

7 Q. So if a look out was assigned
8 to the head of the tow, it would have to be
9 at the front end of the barge, right?

10 A. Correct.

11 Q. That's what that means?

12 A. Yes, the valve of the barge.

13 Q. Which is -- this barge is 200
14 feet. So it's at least 200 feet away from
15 the wheelhouse.

16 A. Correct.

17 Q. The wheel house sits a little
18 back from the bow of the tub, correct?

19 A. Yes.

20 Q. The only way to communicate
21 then is with a handheld radio?

22 A. Yes.

23 Q. Between the two?

24 A. Yes.

25 Q. And what would you expect the

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1 lookout that's assigned to a circumstance
2 like that to be on the lookout for?

3 MR. RODGERS: Objection to the
4 extent he's not here as an expert,
5 and he wasn't the master of that
6 particular tug at the time.

7 So are you asking his opinion?

8 MR. CHAPMAN: Well, I didn't
9 finish because I was going to ask
10 when transiting a bridge. I mean,
11 this -- the question only relates to
12 putting up post and lookout for a
13 bridge transit, okay, which -- you
14 know, which is contemplated by this
15 bullet.

16 **A. Okay.**

17 Q. I'm trying to understand then
18 what is the look out in that circumstance
19 as expected to look out for?

20 MR. RODGERS: Objection -- same
21 objection. He's not here as an
22 expert. And he wasn't on the
23 Mackenzie Rose. You're asking his
24 opinion, so if have you an --

25 **THE WITNESS: I can give my**

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1 **opinion on it.**

2 MR. RODGERS: All right. I
3 don't want you to give your opinion.

4 **THE WITNESS: Okay. All right.**
5 **Then I won't answer it.**

6 Q. If you feel that it's an
7 opinion, you should still give it. And you
8 can qualify it and say that it's your
9 opinion.

10 MR. RODGERS: Objection.

11 **A. I'm just going to go with --**

12 MR. RODGERS: Don't instruct
13 the witness.

14 **A. -- what James is telling me to**
15 **do.**

16 Q. So are you going to answer the
17 question?

18 **A. No.**

19 Q. So you're refusing to answer
20 the question?

21 MR. RODGERS: No. He's not
22 refusing, he's listening to his
23 attorney.

24 MR. CHAPMAN: So you're --

25 MR. RODGERS: What are you

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1 doing, Jim? He's listening to me.

2 MR. CHAPMAN: You're
3 instructing him not to answer then?

4 MR. RODGERS: Yeah. If it's an
5 opinion. He's not here as an expert
6 and he wasn't on the Mackenzie Rose.

7 MR. CHAPMAN: I'm asking about
8 the companies safety management
9 system, and what the companies
10 expectations are or were around that
11 language, what is the look out
12 supposed to be looking out for during
13 a bridge transit.

14
15
16 MR. RODGERS: If you have an
17 answer to that as to what the
18 company's expectation is that you
19 know of, you can answer.

20 A. Okay. It would be to make sure
21 that the vessel as they are transiting
22 through the bridge is doing so safely so
23 that there's clearance port and star board
24 overhead, and to make sure that there is no
25 traffic or anything like that, that -- you

1 know, the -- that's also my -- that's my
2 opinion. To make sure there's no traffic,
3 just to ensure the safety going through the
4 bridge.

5 Q. And then down under the last
6 section titled -- call -- titled "During
7 The Transit." The third bullet says, "To
8 post lookouts as necessary on the tow."
9 Who's that an instruction to?

10 A. That would be to either the
11 master or the mate who's over on watch.

12 Q. Is there a place on any of the
13 reporting forms where you record whether a
14 lookout was posted?

15 A. Not to my knowledge.

16 Q. Do you still hold an active
17 license?

18 A. Yes.

19 Q. All right. When does it
20 expire?

21 A. '27, I think. I just renewed
22 it recently.

23 Q. Okay. Have you ever transited
24 the Southern branch of the Elizabeth River?

25 A. No.

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1 Q. So you're not familiar how the
2 bridges are set up or laid out in that
3 navigational area?

4 A. No, I'm not.

5 Q. They would be marked on a
6 chart, correct?

7 A. They would be, yes.

8 Q. The Section 7.12 in the middle,
9 right under that section that's highlighted
10 it's titled "Safety Briefing."

11 A. Yes.

12 Q. It says that, "As with any
13 operation, the captain responsible for
14 transit should brief the crew and the crew
15 of any assist/tag boats on the plan
16 transit." That does -- that's not
17 mandatory is it, just say "should be?"

18 A. Is what, mandatory assist
19 boats?

20 Q. No. The safety briefing. It
21 says, "Should brief the crew." That's not
22 mandatory, is it?

23 A. No.

24 Q. Is there any reason why it's
25 not mandatory?

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1 **A. I don't know.**

2 Q. Do you think it's a good Marine
3 practice to have a safety briefing before
4 transiting bridges?

5 MR. RODGERS: Objection. Don't
6 answer that. I'm directing the
7 witness not to answer.

8 Q. If you could turn to the
9 Section 7.9 K titled "Safety Management
10 Form." And it starts at Page 194. It
11 looks like this. It has a little blue bar
12 at the bottom with the number of pages in
13 it. It says it's -- first page says, "1 of
14 6 pages." It's probably about halfway
15 through that document.

16 MR. RODGERS: What was the
17 Bates Number?

18 MR. CHAPMAN: 194.

19 MR. RODGERS: 194.

20 MR. CHAPMAN: Yes.

21 **A. 7.9 K, right?**

22 Q. Yeah.

23 **A. Yeah, I got it.**

24 Q. Yeah. So this is apparently a
25 section of the safety management plan that

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1 actually covers a segment of, I'll call it
2 the Intercostal waterway, but basically
3 Norfolk and Virginia and the southern
4 branch of the Elizabeth River, correct?

5 A. Yes.

6 Q. And it's got a few bridges that
7 are identified in it and some general notes
8 on the last couple of pages, right? Do you
9 see that?

10 A. Yes.

11 Q. So the first bridge that's
12 identified in this section is the Norfolk
13 and Portsmouth Belt Line Railroad Bridge,
14 correct?

15 A. Correct.

16 Q. Is this document one that
17 should be consulted before transiting
18 bridges or before transiting this bridge?

19 A. Yes.

20 Q. And do you know whether there
21 were any of the bridges that were transited
22 when they got underway on this voyage
23 before they arrived at the Norfolk and
24 Portsmouth Belt Line Railroad Bridge?

25 A. Was there any other bridges?

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1 Q. Yeah.

2 A. Oh, I don't know.

3 Q. Yeah. And you didn't ask the
4 crew whether there were other bridges that
5 they had made?

6 A. No.

7 Q. Okay. Did you consult this
8 section of the safety management system as
9 part of your investigation?

10 A. No.

11 Q. If you could turn to Section
12 7.16 on lookouts. The number of that page
13 is Carver 000155, but it's -- it is towards
14 the end of the collection of sections --

15 A. Oh, because it's not in order,
16 right?

17 Q. Yeah.

18 A. Okay. So zero -- what is it,
19 155?

20 Q. Yeah. It's just one page, it
21 looks like this.

22 A. Got it.

23 Q. So this is the section of the
24 safety management system on the lookouts,
25 correct?

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1 **A. Yes, correct.**

2 Q. In the first part under
3 requirements for a look out it -- there's a
4 half a dozen bullets of things that should
5 be considered as relevant factors in
6 deciding whether they're supposed to
7 lookout, correct?

8 **A. Correct.**

9 Q. Okay. Weather visibility,
10 traffic density and then it says,
11 "Proximity of dangers to navigation." What
12 are dangers to navigation --

13

14

15 MR. RODGERS: Objection to
16 form.

17 Q. -- that would require the
18 posting of a lookout?

19 MR. RODGERS: Objection to
20 form. He's not here as an expert.

21 **A. Yeah. I'm not sure what they**
22 **would qualify as proximity to dangerous**
23 **allegation.**

24 Q. Would a bridge transit?

25 MR. RODGERS: Objection to

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1 form.

2 A. I'm not sure. Again, I'm
3 not -- I didn't write this, so I don't
4 know.

5 Q. This is intended as guidance
6 though to the master or mate on watch
7 regarding considerations for posting a
8 lookout though, right?

9 A. Yes.

10 Q. Okay. So that's my question
11 is, whether you wrote it or not, is a
12 bridge a danger to navigation?

13 MR. RODGERS: Objection. He's
14 not here as an expert. And you're
15 supposed to premise the questions not
16 as an expert. You haven't done that
17 all day, okay? So I'm going to tell
18 him not to answer. I'm going to
19 direct him not to answer anything
20 that asks for his opinion.

21 MR. CHAPMAN: You're
22 instructing the witness not to answer
23 the question?

24

25

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1 MR. RODGERS: Yes, I am. I
2 just said that.

3 Q. And then under procedures, it
4 says, "A look out should be added when
5 necessary to." And the second bullet is,
6 "To apprise the situation and the risk of
7 collision/ allision," right?

8 **A. Yes.**

9 Q. So the tug while pushing the
10 barge elided with the bridge, right?

11 **A. Yeah.**

12 MR. RODGERS: Can you repeat
13 that?

14 MR. CHAPMAN: I said --

15 MR. RODGERS: Hold on, let me
16 go to this.

17 MR. CHAPMAN: I said, the tug,
18 Mackenzie Rose --

19 MR. RODGERS: I said, "Can you
20 repeat this? "Are you going to
21 repeat it.

22 MR. CHAPMAN: I am.

23 MR. RODGERS: Okay.

24 MR. CHAPMAN: The tug Mackenzie
25 Rose while pushing the Weeks 281 on

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1 June 15th, 2024 elided with the
2 bridge.

3 MR. RODGERS: To his knowledge?
4 To his knowledge.

5 MR. CHAPMAN: Well --

6 MR. RODGERS: He's a fact
7 witness.

8 MR. CHAPMAN: Exactly, and I'm
9 asking him, did it?

10 MR. RODGERS: To his
11 knowledge --

12 MR. CHAPMAN: Did it?

13 MR. RODGERS: -- you're asking
14 him for a legal conclusion.

15 MR. CHAPMAN: No.

16 MR. RODGERS: Yeah, you are.

17 Q. At any time while you were
18 employed by Carver, did you learn that the
19 tug boat while pushing the weeks 281 elided
20 with the Norfolk and Portland Belt Line
21 Bridge on June 15th, 2024?

22 MR. RODGERS: You can answer
23 that.

24 A. Yes.

25 Q. So back to --

1 THE REPORTER: Can you just
2 speak a little louder? Sorry.

3 Q. Back to the safety management
4 system 7.16 on lookout under procedures.
5 It says, "A lookout should be added when
6 necessary to."

7 And then I'm looking at the
8 second bullet, "Apprise the situation and
9 the risk of collision/elision." See that?

10 **A. Yeah, I see it.**

11 Q. So a lookout could have been
12 posted to arise -- to appraise of the risk
13 of an allision with the bridge, correct?

14 MR. RODGERS: Objection. Don't
15 answer that. Directing the witness
16 not to answer that question as it's
17 calling for expert testimony.

18 Q. The last part of that section
19 on procedure says, "A lookout shall be
20 added when entering any port channel, or
21 any waterway intersection." What is meant
22 by a port channel -- when entering a port
23 channel, or anyway waterway intersection?
24 What does that mean?

25

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1 MR. RODGERS: Objection. It
2 calls for expert testimony and
3 interpretation of a statute.
4 Just -- I'm going to direct the
5 witness not to answer.

6 Q. Are you aware of any statute
7 that governs the posting of a lookout when
8 entering a port channel, or a waterway
9 intersection?

10 MR. RODGERS: Objection. You
11 can answer if you're aware or not
12 aware.

13 A. No, I'm not aware.

14 Q. So as far as you know, there's
15 not a statute that would require posting a
16 lookout in either of those
17 circumstances --

18 MR. RODGERS: Objection.

19 Q. -- correct?

20 MR. RODGERS: Mischaracterizes
21 testimony.

22 Q. If I mischaracterize it, you
23 can correct me.

24 A. Can you repeat the question,
25 I'm not sure what you're asking me?

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1 Q. Yeah. I -- what I said was, so
2 there's not a regulation or law that you're
3 aware of that mandates posting a lookout
4 when entering a port channel, or when
5 entering a waterway intersection?

6 A. Oh, no, not to my knowledge.

7 Q. Okay. If you could turn to
8 Section 9.5, which is after 7.12, got a
9 sort of big orange call out at the top?

10 A. Yep.

11 Q. Starting on Page 163. In that
12 call out titled "Reporting Priorities"
13 there's two things that the master is
14 obligated to do. First, "To notify the
15 office as soon as practical after a marine
16 casualty," right?

17 A. Yes.

18 Q. And in the circumstance of this
19 allision, Captain Miller called you after
20 they reportedly made contact with the
21 fender system, right?

22 A. Yes.

23 Q. Okay. And then second, it
24 says, "The master will notify the nearest
25 Coast Guard unit as soon as practical after

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1 a marine casualty."

2 To your knowledge, during the
3 course of your investigation, Captain
4 Miller never contacted the Coast Guard, did
5 he?

6 A. No, not to my knowledge.

7 Q. Regarding the allision?

8 A. Right.

9 Q. Did you ever tell Captain
10 Miller that you were contacting the Coast
11 Guard?

12 A. No.

13 Q. Did you ever tell him that
14 Brian Moore was contacting the Coast Guard?

15 A. No.

16 Q. Did you ever tell him that it
17 was okay to leave -- because you had
18 contacted the Coast Guard?

19 A. No, I did not.

20 Q. Did you ever say to him in
21 words or substance that you had contacted
22 the Coast Guard and that they had said it
23 was okay to leave?

24 A. No, I did not.

25 Q. In your safety management

1 system regarding accident and incident
2 reporting, the system recites regulations
3 out of 46 CFR. Do you see that?

4 A. Yes.

5 Q. And if you go to the next page,
6 about two thirds on the way down, there is
7 a heading called "Notice of Marine Casualty
8 46 CFR 4.05-1?"

9 A. Yes.

10 Q. Okay. In Section A -- I'm
11 going to focus on Section A and Subsection
12 1. So just follow along with me.

13 A. Okay.

14 Q. Section A says, "Immediately
15 after addressing the result and safety
16 concerns, the owner, agent, master,
17 operator or person in charge shall notify
18 the nearest sector office, Marine
19 Inspection Office or Coast Guard Group
20 office whenever a vessel is involved in a
21 Marine casualty, consisting in Subsection
22 1.

23 An unintended grounding for an
24 unintended strike of forensic "allision"
25 with a bridge?" Did I read that correctly?

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1 **A. Yes.**

2 Q. Okay. So is there any
3 circumstance in the context of this
4 regulation that you know of where you don't
5 have to report an unintended allision with
6 the bridge --

7 MR. RODGERS: Objection.

8 Q. -- immediately to the Coast
9 Guard?

10 MR. RODGERS: Objection to the
11 term "allision with the bridge."
12 It's not consistent with his
13 testimony as to what he knew.

14 **A. As far as I knew they landed on**
15 **the fenders inside of the bridge.**

16 Q. And that's not an allision?

17 **A. That's not an allision.**

18 Q. Contact with affixed object is
19 not an allision?

20 MR. RODGERS: He didn't say
21 that.

22 **A. That's not what I'm saying,**
23 **just saying they --**

24 Q. What are you saying then?

25 **A. -- they slid through the**

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1 **fenders .**

2 Q. Without contacting them?

3 **A. From what they told me .**

4 Q. They did not contact the
5 fender?

6 **A. They told me that they slid**
7 **through the fendering system .**

8 Q. So does that mean they
9 contacted the fender?

10 **A. I don't know. I wasn't there .**

11 Q. Well, you were having a
12 conversation with Captain Miller at
13 the -- literally the point in time when
14 this happened, right?

15 **A. Yes .**

16 Q. And when he said to you that
17 they slid through the fenders, what did you
18 understand that to mean? That they had
19 contacted it or not contacted it?

20 **A. I'm not sure because he didn't**
21 **really specify .**

22 Q. You didn't think it was your
23 obligation to be certain what had actually
24 happened in the conversation you had with
25 him?

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1 MR. RODGERS: Objection to
2 form.

3 A. In the moment no. We were just
4 trying to figure exactly what happened.

5 Q. And when did you learn that
6 they said they had actually contacted the
7 fender system of that bridge?

8 A. I don't really recall the exact
9 day and time.

10 Q. But it wasn't on June 15th of
11 2024 is what you're saying?

12 A. No. Not that they had struck
13 the bridge, no.

14 Q. Okay. So is it your
15 perspective that Captain Miller lied to
16 you?

17 MR. RODGERS: Objection to
18 form.

19 A. What'd you say? I don't -- I'm
20 not going to call him a liar. I'm just
21 going off of what he told me.

22 Q. Have you seen a photograph of
23 the actual damage to the bridge?

24 A. No.

25 Q. Never?

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1 A. Never.

2 Q. The only photograph you've seen
3 of the bridge is the one that was texted to
4 you within the hour after Captain Miller
5 first reported it to you?

6 A. Yes.

7 Q. And no others?

8 A. No, no others.

9 Q. If you could turn to Page 166.

10

11

12 MR. RODGERS: Carver 166.

13 MR. CHAPMAN: Yeah.

14 Q. That's in Exhibit 4. It's
15 a -- looks like a flow chart of some
16 sort --

17 A. Sure.

18 Q. -- related to accident or
19 incident reporting?

20 A. Yes.

21 Q. Did you consult this at all
22 when you were investigating the allision
23 with the bridge?

24 A. No.

25 Q. Why not?

1 MR. RODGERS: Objection to
2 form. You can answer if --

3 A. I didn't think that it was
4 necessary to reference this.

5 Q. Did you even know of it's
6 existence?

7 A. Yes.

8 Q. But you didn't think that it
9 was required to review it or follow it?

10 MR. RODGERS: Objection to
11 form.

12 A. Yes.

13 Q. Just so I'm clear what your
14 answer means, you mean -- you're saying
15 what I stated was correct?

16 A. Correct.

17 Q. Near the top of the flow chart
18 in kind of a light green color it says,
19 "File SMF 9.2 near miss report?"

20 A. Yes.

21 Q. Do you know what SMF stands
22 for?

23 A. I do not.

24 Q. Could it be safety management
25 form?

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1 MR. RODGERS: Objection to
2 form. You can answer if you
3 understand.

4 A. It could be, yes.

5 MR. RODGERS: But don't guess.

6 Q. And then at the bottom in red,
7 the mandate is kind of at the bottom of the
8 flow chart, to fill to out an SMF 9.5
9 incident report, correct?

10 A. Yes.

11 Q. Okay. And to your knowledge
12 was an SMF 9.5 incident report prepared for
13 the incident involving the allision with
14 the Belt Line Bridge?

15 A. I do not know if one was.

16 Q. If you could turn to Page 168.
17 Do you see the red box on that flow chart
18 it says, "Designated person assumes
19 position as emergency response coordinator
20 for life of incident?"

21 A. Yes.

22 Q. Who is Carver's designated
23 person in the safety management system?

24

25

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1 MR. RODGERS: At that time.

2 MR. CHAPMAN: Yeah.

3 A. I believe it was Brian Moore.

4 Q. Were there any alternates?

5 A. I don't know, I would have to
6 go back and look. I don't recall.

7 Q. And is that contained somewhere
8 in the safety management system, that
9 designation?

10 A. Yes.

11 Q. And if you turn to Page 169.
12 This is another flow chart on -- it appears
13 to relate to filling out the Coast Guard
14 form 2692, correct?

15 A. Correct.

16 Q. And it says, "A vessel accident
17 must be reported if it occurs upon the
18 Naval waters of the United States. It's
19 territories or possessions or wherever an
20 accident involves a U.S. vessel, wherever
21 the accident may occur. And the accident
22 must also involve one or more of the
23 following."

24 And the very first item
25 under -- on this flow chart, Number 1, is

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1 "An unintended grounding or an unintended
2 strike of "allision with" the bridge."

3 A. Yes.

4 Q. If you had learned that the tug
5 while pushing the barge 281 had damaged the
6 bridge, that has hit it in a way that
7 damaged it, it hit the bridge, would you
8 agree that a 2692 would need to be filled
9 with the Coast Guard?

10 MR. RODGERS: Objection. Calls
11 for speculation. You can answer if
12 you can.

13 A. Yes.

14 Q. You agree?

15 A. Yes.

16 Q. And at the bottom there's a
17 heading called "Drug and Alcohol Testing?"

18 A. Yep.

19 Q. It says, "Any serious marine
20 incident will require drug and alcohol
21 testing of all individuals directly
22 involved."

23 You signed a form that there
24 had been no drug and alcohol testing for
25 this allision, correct?

1 **A. Correct.**

2 Q. And presumably that was
3 submitted to the Coast Guard?

4 **A. Yes.**

5 Q. Okay. And then it says here
6 right after that C Section 6. Do you know
7 what Section 6 is?

8 **A. Assuming it's Section 6 in the**
9 **SMS or safety management system.**

10 Q. Okay. When you were employed
11 by Carver as Port Captain, do you know
12 whether new crew personnel were given any
13 specific training on transiting bridges
14 with narrow channels?

15 **A. To my knowledge, no.**

16 Q. As part of people, you know,
17 taking on a new -- a crew position, getting
18 hired for a crew position on one of your
19 tugs while you were at harbor, did the
20 company provide any, I don't know, deckhand
21 manual, master's manual, some book that
22 had, you know, instructions regarding
23 navigation, or bridge transit, or vessel
24 safety, that sort of thing?

25 **A. Just what was in the SMS that**

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1 everyone had access too on the vessel.

2 Q. So nothing else though?

3 A. To my knowledge, no.

4 Q. And the SMS, how do you access
5 that on the Mackenzie Rose?

6 A. Like I said earlier, you would
7 go onto the boat computer, go into Helm and
8 then there would be a section to access the
9 SMS electronically and also again, download
10 the whole PDF, if you wanted to.

11 Q. Okay. And do you know if
12 there's a copy of the SMS that is aboard
13 the Mackenzie Rose that is a, you know,
14 hard copy?

15 A. Just the electronic ones.

16 Q. And that laptop, is it located
17 in the wheelhouse?

18 A. Yes.

19 Q. But anybody can log into it and
20 look at the SMS?

21 A. Yes.

22 Q. Do you know while you were, you
23 know, Port Captain for Carver, whether
24 there was any ongoing training or guidance
25 on how to safely transit bridges with

1 barges?

2 A. To my knowledge, I don't know
3 of any, no.

4 Q. Was there any ongoing training
5 that was focused specifically on lookout
6 duties or the circumstances under which
7 somebody should be posted as a lookout to
8 the head end of the barge?

9 A. To my knowledge, no. There
10 was --

11 Q. Is the only guidance or
12 operating procedure, if I can call it that,
13 regarding the transiting of bridges
14 contained in Section 7.12 of the safety
15 management system --

16 MR. RODGERS: To his knowledge.

17 MR. CHAPMAN: Yeah, to his
18 knowledge.

19 A. To my knowledge, yes.

20 Q. It's not like there's a book
21 sitting on the shelf somewhere at the
22 company's office that says "How to safely
23 transit bridges?"

24 A. No.

25 Q. Okay. Is there any specific

1 training provided to the crew about the
2 proper use of an autopilot system on the
3 company's vessels?

4 **A. No. Anything related to the**
5 **autopilot would be referenced in the safety**
6 **management system.**

7 Q. So there maybe a section on the
8 autopilot system, it's just -- we don't
9 have it as part of that collection --

10 **A. Correct.**

11 Q. -- in Exhibit 4, right?

12 **A. Correct.**

13 Q. How are masters, or mates, you
14 know, the officer of the watch, expected to
15 know how to appropriately use the autopilot
16 system?

17 MR. RODGERS: Sorry,
18 could -- let me just read that from
19 the computer.

20 I'm going to object as to form.
21 You can answer if you understand it
22 or know it.

23 **A. It's -- I don't really know how**
24 **to answer it.**

25 Q. How did you learn how to use an

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1 autopilot system, let's start there?

2 A. From sailing, experience, I was
3 shown by a captain. I was -- before I
4 became a full -- like a cut loose mate, I
5 was a training mate. So I sailed as an
6 extra wheelhouse personnel for six months.
7 Kind of learned all the operating systems.

8 Q. On-the-job training?

9 A. Correct.

10 Q. Are there any manuals regarding
11 the use of the autopilot system?

12 A. Yes. There's manuals on board
13 the vessel.

14 Q. Have you actually seen the
15 manual for the autopilot system on the
16 McKenzie Rose when you were employed by
17 Carver?

18 A. Yes, I have. When the new
19 system was installed, the manual was left
20 on board for anyone to reference on the
21 boat.

22 Q. And that would've been by
23 whoever the technician was that installed
24 it?

25 A. Correct.

1 Q. Was there any training for that
2 new system that was specifically provided
3 to your knowledge?

4 A. To my knowledge, no.

5 Q. So the manual served as kind of
6 a reference if they want to look something
7 up or need to look something up?

8 A. Yes.

9

10

11 MR. RODGERS: Objection to
12 form. You can answer.

13 A. Yes.

14 Q. Did -- have you ever reviewed
15 that autopilot manual for the new
16 autopilots that were installed on the
17 Mackenzie Rose while you were with Carver?

18 A. No.

19 MR. RODGERS: Do you want some
20 coffee, Jim? There's new coffee.

21 MR. CHAPMAN: Did they bring
22 some?

23 MR. RODGERS: Yeah, they did.

24 MR. CHAPMAN: Yeah. Could we
25 just take a five-minute break?

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1 MR. RODGERS: Yeah.

2 MR. CHAPMAN: Would be okay?

3 MR. RODGERS: Yeah, no, that's
4 good.

5 MR. CHAPMAN: Okay.

6 MR. RODGERS: I thought you saw
7 the guy come in.

8 MR. CHAPMAN: No.

9 THE VIDEOGRAPHER: We are going
10 off the record. The time is
11 2:56 p.m.

12 (Whereupon, a short recess was
13 taken.)

14 THE VIDEOGRAPHER: Beginning
15 Media Number 4. We are back on the
16 record. The time is 3:03 p.m.

17 Q. Mr. Baldassare, during the
18 course of your investigation between the
19 statements that you received and the
20 interviews you conducted of the crew, did
21 you learn that the captain was the only one
22 who was working as a lookout at the time of
23 the allision?

24 A. Yes.

25 MR. RODGERS: You mean

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1 Morrissey?

2 MR. CHAPMAN: Yeah, Captain
3 Morrissey.

4
5 MR. RODGERS: Well, he was
6 at -- okay.

7 Q. He was the officer on the
8 watch, right?

9 **A. Yes.**

10 Q. Yeah. And that's because the
11 other deckhand that was on duty at the time
12 was --

13 MR. RODGERS: Objection.

14 Q. -- down in the galley, right?

15 MR. RODGERS: No. Objection.
16 That's not the testimony in this
17 case.

18 Q. I'm just asking what you
19 learned in the investigation?

20 **A. I'm not sure where the other**
21 **deckhand was at the time.**

22 Q. Well, was there more than one
23 pair of eyes keeping an eye out on the
24 transit of the vessel?

25 MR. RODGERS: Objection.

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1 Q. On the boat, at the time of the
2 allision?

3 MR. RODGERS: You can answer.

4 A. It was Captain Morrissey who
5 was on watch, yeah.

6 Q. Yeah. So he was on watch.
7 What I'm asking is whether there was a
8 second person that was providing any kind
9 of lookout with respect to the transit at
10 the time of the allision?

11 MR. RODGERS: As far as he
12 knows from his investigation.

13 MR. CHAPMAN: Yeah, exactly.

14 A. As far as I know, no.

15 Q. And as far as you know, when
16 you were employed by Carver, there was no
17 requirement by Carver that more than one
18 person served as the lookout when
19 transiting bridges, correct?

20
21 MR. RODGERS: Objection. He's
22 not here as an expert. You can
23 answer if you understand the
24 question.

25 A. To my knowledge, no, there was

1 **no policy or requirement.**

2 Q. Are you aware of any best
3 practices in the towing industry that would
4 require posting a lookout at the head end
5 of the barge during a bridge transit?

6 MR. RODGERS: Could you define
7 best practices.

8 MR. CHAPMAN: I'm just asking
9 him.

10 MR. RODGERS: That's a kind of
11 a corporate term. But if you
12 understand it, you can go ahead.

13 **A. Yes.**

14 Q. And are you aware of any best
15 practices in the towing industry that
16 recommend disengaging the autopilot when
17 transiting near a fixed object like a
18 bridge?

19 MR. RODGERS: Objection to
20 form. He's not here as an expert.
21 You can answer as to what you
22 know.

23 **A. Yes, I'm aware.**

24 Q. And there are?

25 **A. There are, yes.**

1 Q. Can an autopilot system make
2 course corrections?

3 MR. RODGERS: Objection. He's
4 not here as an expert on autopilot
5 systems.

6 A. Yeah, I don't --

7

8 MR. RODGERS: You can as to
9 your knowledge.

10 A. To my knowledge, I'm not sure.
11 I'm not a -- I don't -- I'm not sure.

12 Q. Is there any autopilot system
13 that you've ever used that's capable of
14 making its own course corrections?

15 MR. RODGERS: Objection to
16 form. You can answer as to your
17 knowledge.

18 A. No. It would -- you would set
19 the course that you wanted and it would
20 hold that course.

21 Q. It would endeavor to stay on
22 that course?

23 A. Correct.

24 Q. Okay. But if you want to
25 change it, it has to be done manually?

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1 A. Yes.

2 Q. As part of the -- your
3 investigation, did you ever determine
4 whether the radar was in use on the vessel
5 at the time of the allision?

6 A. Yes, the radar was in use.

7 Q. And would a radar indicate a
8 fixed object like a bridge?

9 A. Yes.

10 Q. I figured the answer was yes.

11 MR. CHAPMAN: Sorry, made you
12 choke there Mr. Rodgers.

13 A. Yes, it would. I didn't know
14 if it was a trick question.

15 Q. Okay. The radars on the
16 Mackenzie Rose, did they provide any
17 warning associated with the approach to a
18 fixed object?

19 A. They would have to set their
20 own CPA if they wanted to be alerted.

21 Q. Like how far out?

22 A. Correct.

23 Q. What does CTA stand for?

24 A. CPA?

25 Q. CPA.

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1 A. Closest point of approach.

2 Q. Okay. And did you find out
3 during your investigation what had been set
4 as the closest point of approach for the
5 radars for some notification?

6 A. I did not.

7 Q. Do you know whether there was
8 any CPA that was set?

9 A. I do not. They do not tell me.
10 I know the radar was operational from what
11 they told me.

12 THE REPORTER: And you said
13 CPA, right?

14 THE WITNESS: Yes.

15 MR. CHAPMAN: I don't think I
16 have any further questions at this
17 time. Based on what the judge said
18 though I'm reserving my rights with
19 respect to anything you guys
20 produce --

21 MR. RODGERS: Yeah.

22 MR. CHAPMAN: -- as ordered last
23 week.

24 MR. RODGERS: I just ask that
25 we -- if possible we do it -- if any

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1 follow up with this witness, we do by
2 Zoom or here in New York with me
3 representing him if you want to do it
4 from Norfolk --

5 Q. We will do our best to
6 accommodate that. Okay. I mean that, I
7 don't know how it'll work out, but I don't
8 want to make it difficult, you know. And
9 we may not need to re-depose you, okay, to
10 ask you more questions. But if we do,
11 we'll make those arrangements.

12 THE REPORTER: And Counsel, do
13 you want this expedited and/or, I
14 know you wanted a rough, but do you
15 want it expedited as well for the
16 final --

17 MR. RODGERS: No. But I have a
18 couple of questions.

19 MR. CHAPMAN: Yeah.

20 EXAMINATION BY

21 MR. RODGERS:

22 Q. So Mr. Baldassare, training of
23 the crew on any particular tug boat is done
24 by the captain, right?

25 A. Yes, sir.

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1 Q. Or the captain is supervising
2 training, correct?

3 A. Yes.

4 Q. And that would include any
5 training for lookouts, correct?

6 A. Yes, sir.

7 Q. And it's the captain of the tug
8 when they're on the way that makes the sole
9 decision to have a lookout?

10 A. Yes.

11 Q. Okay. And any instructions
12 that lookout or a particular watch that the
13 lookout is standing, would that generally
14 come from the captain?

15 A. Yes.

16 Q. To your knowledge?

17 A. To my knowledge, yes.

18 Q. Okay, and your experience?

19 A. Yes, sir.

20 Q. Okay. Now, if you could go
21 to -- well, before you go to anything, I
22 got a few questions.

23 In your investigation, did you
24 determine which bridge Mate Morrissey was
25 on at the time of the incident?

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1 A. What bridge on the vessel?

2 Q. Yeah.

3 A. I don't -- was not -- no. I
4 did not know. I would've -- I don't know.

5 Q. You don't know --

6 A. No.

7 Q. -- whether he was on the
8 steering bridge or the lower bridge, the
9 main bridge?

10 A. I believe he was on the -- he
11 should have been in the upper wheelhouse.

12 Q. Okay. And if -- is -- have you
13 ever been to the upper wheelhouse on that
14 vessel?

15 A. Yes.

16 Q. The McKenzie Rose is --

17 THE REPORTER: Just give him a
18 minute to finish.

19 THE WITNESS: Sorry.

20 Q. And from that steering bridge,
21 upper wheelhouse the mate on watch can see
22 past the barge configured as it was
23 that -- on the day of the incident,
24 correct?

25 MR. CHAPMAN: Object to the

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1 form.

2 A. Yes.

3 Q. It's above the barge, correct?

4 A. Yes, yes.

5 Q. So is his view unobstructed --

6 MR. CHAPMAN: Object to the

7 form.

8 A. Yes.

9 Q. -- as to what you understand
10 the load was?

11 A. As to what I understand, yes.

12 Q. And if he looks to the
13 starboard side, is it generally
14 unobstructed?

15 MR. CHAPMAN: Object to the
16 form.

17 A. Yes.

18 Q. How about the portside?

19 MR. CHAPMAN: Same objection.

20 A. Yes.

21 Q. And how about a Stern?

22 MR. CHAPMAN: Same objection.

23 A. Yes.

24 Q. If he turns around, obviously?

25 A. Yes.

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1 Q. Okay. Could you go to --

2 THE REPORTER: Okay. You guys
3 have to slow down tremendously for
4 me.

5 MR. RODGERS: I'm sorry.

6 THE REPORTER: Just slow down a
7 little bit.

8 MR. RODGERS: You're from New
9 York.

10 THE REPORTER: I don't care, I
11 can't write --

12 MR. RODGERS: Okay, sorry.
13 Apologies.

14 THE REPORTER: I can't write
15 his testimony --

16 MR. RODGERS: All right, I'm
17 sorry. Did you get it all?

18 THE REPORTER: I did actually,
19 but not the point --

20 MR. RODGERS: All right.

21 THE REPORTER: Slow down a
22 little bit. You can read the
23 realtime, I have it.

24 MR. RODGERS: I don't think
25 it's going to go well down in Eastern

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1 District, Virginia if I'm questioning
2 anybody.

3 THE REPORTER: It'll be a lot
4 slower.

5 MR. RODGERS: I'm going to have
6 to do a training session.

7 Q. Could you look at Carver 155,
8 which was the lookout, Section 7.16?

9 **A. Yes.**

10 MR. CHAPMAN: We're on the SMS
11 Exhibit 4.

12 MR. RODGERS: Sorry, thank you.

13 Q. We're in the SMS Exhibit 4,
14 Bates Stamp Number Carver 155.

15 Just hold that thought, I need
16 to check something. Sorry, I just need two
17 minutes some -- before I -- just -- oh,
18 there they are.

19 Okay. If you could go back to
20 Exhibit 4, Carver 155. Could you read into
21 the record under "One man bridge
22 operations?"

23 **A. Sure. "One man bridge**
24 **operations. On vessels where there is an**
25 **unobstructed all around view provided at**

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1 the steering station, as on certain
2 pleasure crafts, fishing boats and towing
3 vessels or where there is no impairment of
4 night vision or other impediment to keeping
5 a proper look out, the watch officer or
6 helmsmen may safely serve as the lookout.

7 However, it is expected that
8 this practice will only be followed after
9 the situation has been carefully assessed
10 on each occasion and it has been clearly
11 established that it is prudent to do so.

12 Full account shall be taken of
13 the weather, conditions of visibility,
14 traffic density, and proximity of
15 navigational hazards. It is not the intent
16 of these rules to require additional
17 personnel forward if none is required to
18 enhance safety."

19 Q. Thank you. Now, if a -- in
20 your experience and understanding of
21 lookouts as you -- in the context of being
22 questioned by Mr. Chapman, is it the
23 captain's decision to decide whether
24 lookout is to require to enhanced safety?

25 MR. CHAPMAN: Object to the

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1 form.

2 **A. Yes, it is his decision.**

3 Q. Okay. And I'm not going to ask
4 you any opinion questions. I'm just going
5 to want you to verify. This is in Section
6 7.16 under the "lookout" section of
7 Carver's SMS book, right?

8 **A. Yes, that is correct.**

9 Q. Okay, what you just read?

10 **A. Yes.**

11 Q. Okay. Sorry I lost my list. I
12 remember, okay. I don't need the list.

13 Carver 169, can you find that?
14 I'm not sure where that is. I think it was
15 near the end of those --

16 **A. Yeah, I got it.**

17 Q. -- those charts.

18 **A. Yep.**

19 Q. I'm glad you got it. Okay. Is
20 that in Exhibit 4?

21 **A. Yes.**

22 Q. Okay, thank you.

23 All right. Do you remember
24 talking about this flow chart in Section
25 915 of the SMS with Mr. Chapman?

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1 A. Yes, I remember.

2 Q. Okay. So I just want to go
3 over a few things, or maybe just one thing.
4 If you go to one, it says, "An unintended
5 grounding or an unintended strike of
6 "allision with" a bridge," correct?

7 A. Yes.

8 Q. Now, on June 15th, 2024 when
9 you received a call from Captain Miller,
10 did he tell you he had hit the bridge?

11 A. No.

12 Q. At any time during that day,
13 June 15th, did you find out he had hit the
14 bridge?

15 A. No.

16 Q. And was it your understanding
17 that he had slid by the fendering system?

18 A. Yes.

19 Q. That's what he told you?

20 A. Yes, that is what he told me.

21 Q. Okay. So just from reviewing
22 this and your knowledge of this flow chart,
23 is it your understanding that based on what
24 Captain Miller told you this reporting
25 requirement was not required on June 15th

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1 with the knowledge you had?

2 **A. That is correct, with the**
3 **knowledge of the situation that I was told.**

4 Q. Okay. I have no further
5 questions. Thank you.

6 MR. CHAPMAN: I have a couple
7 of follows up. Thank you. MR.

8 RODGERS: How did I guess.

9 EXAMINATION BY

10 MR. CHAPMAN:

11 Q. So you got Exhibit 4 there?

12 **A. Yes.**

13 Q. I got a follow up on Page 155,
14 which is the lookout rule?

15 **A. One second.**

16 Q. 7.16, lookout. You got that
17 there?

18 **A. Yes, sir.**

19 Q. You read that very last section
20 called "One man bridge operations," right?

21 **A. I did, yes.**

22 Q. And it looks like it's quoted
23 language from some other source, right?

24 **A. Yes.**

25 Q. And did Carver intentionally

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1 include this in it's safety management
2 system or was it something that was
3 included by the folks that sell the safety
4 management system this TBS outlet, if you
5 know?

6 MR. RODGERS: Objection to
7 form.

8 Q. If you know.

9 **A. I do not know.**

10 Q. Okay. In any of that language
11 that you read regarding one man bridge
12 operations, did it talk about transiting
13 bridges?

14 **A. No.**

15 Q. Okay. Did it talk about narrow
16 channels?

17 **A. No, it did not.**

18 Q. Now, if you could turn to Page
19 169, Section 9.5 of this accident and
20 incident reporting?

21 **A. Got it.**

22 Q. Section --

23 MR. RODGERS: Somebody there.

24 MR. CHAPMAN: Is somebody
25 asking a question or they just didn't

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1 put themselves on mute?

2 MR. RODGERS: Cannon Moss.

3 It's your client.

4 THE REPORTER: Mr. Cannon?

5 MR. RODGERS: I think it's

6 Mr. Moss. Is it Moss?

7 THE REPORTER: Yes.

8 MR. CHAPMAN: Mr. Moss, were
9 you asking a question or did you just
10 forget to mute yourself? Looks like
11 he's on mute now. Okay.

12 Q. So we're on Page 169 in Exhibit
13 4?

14 A. Yes, sir.

15 Q. And Mr. Rodgers asked you a
16 question related to whether this was
17 something that needed to be reported,
18 right? And based on what you learned
19 during your conversations with Captain
20 Miller, on June 15th, right?

21 A. Yes, he did.

22 Q. And I think the word was or the
23 term that was used was slide by, which you
24 understood to mean they had made no contact
25 with the bridge or fender system, correct?

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1 MR. RODGERS: Objection to
2 form. You can answer if you
3 understand his question.

4 A. Yes, correct.

5 Q. That's what you believe?

6 A. To what I -- to what they told
7 me, yes.

8 Q. Got it. So have you ever had
9 another tug crew contact you to inform you
10 that they had slid by a fender system while
11 you were Port Captain at Carver?

12 A. No.

13 Q. So if all they did was slide by
14 the fender system, was there any reason for
15 them to call you about it that afternoon?

16 MR. RODGERS: Objection to
17 form. You can answer if you --

18 A. You would have to ask --

19 MR. RODGERS: Don't guess.

20 A. You would've to ask Captain
21 Miller his reasoning. I'm not sure, I just
22 answered the phone when they called.

23 Q. If all they did was slide by as
24 reported to you, would there be any reason
25 for you to ask them to take some photos and

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1 send them to you?

2 MR. RODGERS: Objection to
3 form. You can answer if you have an
4 answer.

5 **A. Yes. Just so I can make sure**
6 **that there was no damage and that they**
7 **weren't lying to me about anything.**

8 Q. So they called you to tell you
9 that they had slid by and hadn't made any
10 contact with the bridge out of the blue on
11 a Saturday afternoon?

12 MR. RODGERS: Objection to
13 form.

14 Q. Okay. On a Saturday afternoon.
15 And you wanted to check whether they were
16 lying to you, so you had them take some
17 photos and send them to you. Is that your
18 testimony?

19 MR. RODGERS: Objection to
20 form. You can answer if you want to
21 extrapolate on that.

22 **A. I'd rather not answer.**

23 Q. Are you going to refuse to
24 answer?

25 **A. Yes.**

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1 Q. No further questions.

2 MR. RODGERS: I think I'm done.

3 MR. CHAPMAN: Yeah, thank you.

4 MR. RODGERS: Thank you, Mr.

5 Baldassare.

6 **THE WITNESS: Thank you.**

7 MR. RODGERS: Thanks for coming
8 in.

9 **THE WITNESS: No problem.**

10 MR. RODGERS: Are we done with
11 the witness?

12 MR. CHAPMAN: Yeah. I'm sorry
13 it was a little tense.

14 THE VIDEOGRAPHER: One second.
15 This is the end of the video
16 deposition of Leonard Baldassare.
17 The time is 3:24 p.m.

18 MR. NANAVATI: Ms. Court
19 reporter, I would like a copy of that
20 proceeding.

21 (Time noted: 3:26 p.m.)

22

23

24

25

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1 A C K N O W L E D G M E N T

2

3

4 STATE OF NEW YORK)

5 :ss

6 COUNTY OF)

7 I, LEONARD BALDASSARE, hereby certify

8 that I have read the transcript of my

9 testimony taken under oath on 04/29/2025;

10 that the transcript is a true, complete and

11 correct record of what was asked, answered

12 and said during this proceeding, and that

13 the answers on the record as given by me

14 are true and correct.

15

16

LEONARD BALDASSARE

17

18

19 Signed and subscribed to

20 before me this _____ day

of _____, 2025

21

22

Notary Public

23

24

25

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1 C E R T I F I C A T E

2

3 STATE OF NEW YORK)

4 :ss

5 COUNTY OF SUFFOLK)

6

7 I, LARIN KAYWOOD, a Notary Public
8 within and for the State of New York, do
9 hereby certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and
12 that such an examination is a true record
13 of the testimony given by such a witness.

14 I further certify that I am not
15 related to any of these parties to this
16 action by blood or marriage, and that I am
17 not in any way interested in the outcome of
18 this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 29th day of April, 2025.

21

22

23

24

25



Larin Kaywood

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1 Errata Sheet

2

3 NAME OF CASE: IN THE MATTER OF COEYMANS MARINE TOWING, LLC

4 DATE OF DEPOSITION: 04/29/2025

5 NAME OF WITNESS: LEONARD BALDASSARE

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page _____ Line _____ Reason _____

11 From _____ to _____

12 Page _____ Line _____ Reason _____

13 From _____ to _____

14 Page _____ Line _____ Reason _____

15 From _____ to _____

16 Page _____ Line _____ Reason _____

17 From _____ to _____

18 Page _____ Line _____ Reason _____

19 From _____ to _____

20 Page _____ Line _____ Reason _____

21 From _____ to _____

22 Page _____ Line _____ Reason _____

23 From _____ to _____

24

25 _____

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